

## Impact case study (REF3)

<b>Institution:</b> University of Glasgow (UofG)		
<b>Unit of Assessment:</b> UoA 18 Law		
<b>Title of case study:</b> Combating ill-treatment of detained persons in Eastern Europe through changes in legislation, policy and practice		
<b>Period when the underpinning research was undertaken:</b> 2006–2017		
<b>Details of staff conducting the underpinning research from the submitting unit:</b>		
<b>Name(s):</b> Jim Murdoch	<b>Role(s) (e.g. job title):</b> Professor of Public Law	<b>Period(s) employed by submitting HEI:</b> 1979–present
<b>Period when the claimed impact occurred:</b> 2014–2020		
<b>Is this case study continued from a case study submitted in 2014?</b> Yes		
<p><b>1. Summary of the impact</b></p> <p>Ill-treatment of detained persons, whether at time of arrest, during pre-trial detention, or following conviction, is a systemic issue in many Eastern European countries. For example, detained persons may be coerced into confessing crimes; prisoners can be held in poor conditions and subjected to violence by guards. Murdoch was invited by the Council of Europe and beneficiary governments to help tackle this problem in North Macedonia, Bulgaria and Georgia. Through fact-finding research, legislative/policy recommendations and practitioner training, Murdoch's work has underpinned changes to law, policy and practice, including: (i) the establishment via legislation of an independent body to safeguard the rights of detainees in North Macedonia; (ii) improved understanding amongst the Bulgarian judiciary of human rights standards for detainees; (iii) better standards for detainees held in Temporary Detention Isolators in Georgia.</p>		
<p><b>2. Underpinning research</b></p> <p>Professor Jim Murdoch is an international human rights expert with an extensive body of work in human rights law. A key focus of his research has been the European Convention for Prevention of Torture and Inhuman or Degrading Treatment. In 2006, following a period of doctrinal research into the case law of the European Court of Human Rights, and the reports and recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), he published an authoritative monograph setting out the legal requirements in relation to human rights-compliant treatment of sentenced prisoners and those detained pre-trial [O1]. At the request of the Council of Europe (CoE), Murdoch has also co-authored (with Roche, a Council of Europe consultant in policing and human rights) guidance on human rights compliance for police officers and law enforcement officials [O2] and (with Jiříčka, Head Psychologist, Czech Republic Prison Service) similar guidance for prison staff [O3].</p> <p>Murdoch's doctrinal research is complemented by empirical research, undertaken on a country-by-country basis, as to why these standards have not been met in the case of that specific country. This research is conducted at the invitation of the CoE, as part of a number of Joint Programmes, beginning with the Joint Programme of the European Union and the CoE into Combating Impunity through the Introduction of Effective Investigations. In 2009, the Joint Programme appointed Murdoch as one of two long-term experts, a highly-prestigious appointment. In 2012, Murdoch was awarded the Pro Merito Medal of the CoE—the highest distinction granted to individuals or organisations in recognition of their commitment to the CoE's values and work.</p> <p>The role of the experts is to research ill-treatment of prisoners and detained suspects in member states on behalf of the CoE, and to work with governments, policymakers and practitioners to develop country-specific solutions. The countries which Murdoch has investigated to date are Ukraine, Georgia, North Macedonia, Bulgaria, Kazakhstan and Kosovo.</p> <p>When tasked with an investigation by the CoE, Murdoch is provided with a brief setting the parameters of the project. Murdoch conducts research in the state, involving semi-structured interviews with practitioners (e.g. Ministers, senior officials, judges, judicial training institutes, lawyers' associations, NGOs) and doctrinal analysis of domestic legal models and norms. He produces a final research report setting out his findings as to why the state is failing to comply</p>		

## Impact case study (REF3)

with human rights standards, which may include problems at the levels of legislation, policy and practice. The report also recommends changes required to address these problems.

The work carried out in Ukraine and Georgia formed the basis of a REF impact case study in 2014. The focus of this case study is work carried out in North Macedonia and Bulgaria, as well as a second project undertaken in Georgia since REF2014. The key research findings in each were:

- In North Macedonia, complaints of police and prison officer ill-treatment of detainees were routinely ignored, making the extent and nature of human rights violations difficult to quantify. Murdoch recommended the establishment of an independent body to “police the police”, safeguarding prisoners’ rights and ensuring violations come before the domestic courts, and identified the criteria that the body would need to satisfy to comply with human rights standards.
- In Bulgaria, the domestic courts were failing to correctly apply human rights standards when faced with applications by detainees. Murdoch recommended a programme of judicial training to build capacity and foster attitudinal change amongst the judiciary in relation to their understanding and application of appropriate human rights standards.
- In Georgia, the treatment of those detained in “Temporary Detention Isolators” did not comply with appropriate human rights standards. Murdoch identified areas of concern and made detailed recommendations to facilitate compliance with the requirements of the European Convention on Human Rights (ECHR).

Final research reports for these countries have been provided to the CoE [O4][O5][O6].

### 3. References to the research

[O1] J Murdoch, [The Treatment of Prisoners: European Standards](#) (CoE, 2006). ISBN 9789287159274. [available on request from HEI]

[O2] J Murdoch and R Roche, [The European Convention on Human Rights and Policing: A Handbook](#) (CoE, 2013). ISBN 188113GBR. [also available from HEI]

[O3] J Murdoch and V Jiříčka, [Combating Ill-Treatment in Prison](#) (CoE, 2016). ISBN 011416GBR. [also available from HEI]

[O4] J Murdoch, *Development of an External Oversight Mechanism (EOM) for the Work of the Police in FYRO Macedonia* (CoE, 2016). [Confidential]: available on request from HEI]

[O5] J Murdoch, *Support for the Implementation of the European Court of Human Rights Judgments and CPT Standards and Recommendations in Bulgaria (Prison Reform)* (CoE, 2017). [Confidential]: available on request from HEI]

[O6] J Murdoch, *Temporary Detention Isolators (TDIs) in Georgia: Capacity-Building and Operational Procedures* (CoE, 2014). [Confidential]: available on request from HEI]

### Evidence of quality of research

Output [O1] is a 405-page monograph based on original research that was reviewed by the CoE prior to publication. Output [O2] is a 154-page research-based handbook that was reviewed by the CoE prior to publication. Output [O3] is a 92-page research-based handbook that was reviewed by the CoE prior to publication.

### 4. Details of the impact

Murdoch has worked with the CoE and beneficiary governments to implement the recommendations contained in his research reports on North Macedonia, Bulgaria and Georgia, strengthening the human rights of detainees in these countries. The prison population figures given below are drawn from the [CoE Annual Penal Statistics](#) as at 11 June 2019.

#### 4.1. North Macedonia: an independent body to safeguard the rights of detainees

Prior to Murdoch’s involvement, there had been a number of adverse rulings against North Macedonia in the European Court of Human Rights on the basis of its failure to effectively investigate allegations of the ill-treatment of detainees by the police. In June 2015, the Ministry

of Internal Affairs in Macedonia asked the CoE for assistance in tackling the problem and this led the CoE to fund a EUR130,000 project: [Support to the Establishment of an External Oversight Mechanism in North Macedonia](#).

It was under the auspices of this project that Murdoch was invited by the CoE, along with two other experts, to carry out doctrinal and empirical research to identify a feasible, human rights compliant solution. The research findings were reported in [O4], which recommended the establishment of an independent oversight body to “police the police”. The research identified a human rights compliant model for the proposed “External Oversight Mechanism” (EOM) that had the support of the vast majority of respondents (a two-tier model involving both the public prosecutor’s office and the ombudsman’s office). This proposal was implemented in October 2018, when the Macedonian Parliament passed amendments to legislation regulating the office of the Public Prosecutor and to the Criminal Procedure Code (confirmed by amendments to various laws [E1], conclusions from CoE Round Tables [E2] and an email from the Project Officer [E3]).

This legislation clarified the obligations on police, prison officers and prosecutors in relation to the human rights of prisoners and provided for the introduction of the new EOM [E1]. In February 2019, Murdoch participated in three workshops with c.100 high-level police and prison officials, as well as government representatives, judges from first instance and appellate courts and the Prosecutor’s Office, to deliver guidance on the standards required for human rights compliance and raise awareness of the establishment of the EOM [E2][E3]. The EOM became operational in 2020 [E3]. The CoE official who worked closely with Murdoch on this project confirmed, “the valuable role that Professor Jim Murdoch’s research played” in securing this outcome [E3] and the project was presented as one of the Council of Europe’s Criminal Law Co-operation Highlights of 2018 [E4a] and 2019 [E4b].

The ultimate beneficiaries of the work will be members of Macedonia’s prison population of c.3,000 (those detained pre-trial and sentenced prisoners) who, as a result of Murdoch’s research, should be treated by the police in accordance with human rights standards and will have redress to an independent oversight mechanism if issues of ill-treatment do arise.

#### **4.2. Bulgaria: improved understanding of human rights standards amongst the judiciary**

Prior to Murdoch’s involvement, the European Court of Human Rights (ECtHR) had held in numerous cases that the conditions of detention in Bulgaria were incompatible with Article 3 of the ECHR (the prohibition of torture and inhuman or degrading treatment or punishment). In 2015, the ECtHR found that there were systemic problems within the Bulgarian prison system and set a deadline of 18 months within which the government was required to implement measures to address them. This led the CoE to fund a EUR400,000 project to support effective and comprehensive prison reform in Bulgaria in conformity with ECHR standards: [Support for the implementation of the European Court of Human Rights judgments and CPT standards and recommendations in Bulgaria](#). One of the objectives of the project was to “enhance the capacity of judges and prosecutors regarding the general prohibition of torture, inhuman and degrading treatment as established in the jurisprudence of the ECtHR” (confirmed by report [E5]). It was in support of this objective that Murdoch undertook the research reported in [O5].

In 2017, following Murdoch’s recommendations in [O5], the Bulgarian government introduced a judicial training programme to enhance awareness of human rights standards and foster a culture of respect for their application in relation to prisoners (confirmed by letter [E6]). Murdoch worked with a Bulgarian judge and lawyer to develop a curriculum for judges at all levels on the prohibition of torture and inhuman and degrading treatment, with a focus on prison conditions, assessment of prisoners’ complaints and awarding compensation [E6]. In 2018, Murdoch delivered a three-day training workshop to members of the body responsible for training judges, in addition to 17 judges who sit on the higher-level courts [E6][E7]. These officials are, in turn, delivering the training to lower-level judges, allowing the work to cascade down through the system [E6][E7], training the approximately 2,000 judges working in the Bulgarian courts. Feedback from judges who took part in the training has been “very positive” [E6]. As one of the judges involved stated, “[it] helped the audience [of administrative judges] gain enough self confidence in understanding and applying the new legal provisions in Bulgarian legislation and

respective practice of the ECHR” [E6]. The project was presented as one of the Council of Europe’s Criminal Law Co-operation Highlights of 2017 [E7].

The ultimate beneficiaries of the work will be the c.7,000 members of Bulgaria’s prison population (both those detained pre-trial and sentenced prisoners), who will be better placed to effectively challenge their conditions of detention in the domestic courts (as cases will be heard by judges who are familiar with relevant human rights standards).

#### 4.3. Georgia: better standards for detainees held in Temporary Detention Isolators

Murdoch’s work on improving prison standards for sentenced prisoners in Georgia was part of an impact case study submitted to REF2014. Since then, Murdoch has had further impact in Georgia, this time on the treatment of those detained pre-trial in units known as “Temporary Detention Isolators” (TDIs). An assessment by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) in 2014 found a number of areas of concern regarding TDIs, including initial medical examinations, provision of information about rights and general conditions of detention.

In 2014, the CoE funded a EUR199,700 project aimed at enhancing human rights protection in TDIs: [Capacity Building of the Ministry of Internal Affairs of Georgia to Ensure/Enhance Adequate Human Rights Protection in Temporary Detention Isolators](#). A key aim of the project was the development of standard operating procedures for TDI staff based on relevant human rights standards. It was in pursuit of this aim that Murdoch undertook the research reported in [O6]. This led to new human rights compliant standards being drawn up by the Georgian Ministry of Internal Affairs, procedures which the Ministry explicitly stated were, “developed on the basis of the recommendation provided by James Murdoch” (confirmed by project summary [E8]). Murdoch approved the final draft [E9]. These were passed by Ministerial Decree in August 2016 and came into force on 1 November 2016 (confirmed by Order of the Minister of Internal Affairs [E10]). They provide various additional protections against ill-treatment for detainees, including the right to a medical examination prior to detention (Article 6), restrictions on measures of immobilisation (such as handcuffs) (Article 14) and various other rights such as the right to receive information in an understandable language, the right to information about the health of family members and the right to conduct religious rituals (Article 23).

The ultimate beneficiaries of the work will be the c.12,000 detainees who pass through TDIs annually. There is already some evidence of this ultimate impact. In 2018, the CPT undertook a follow-up assessment of detention conditions in Georgia [E11]. Overall, the delegation “received a very positive impression” (para 21) and found that standards in relation to medical examinations (paras 24, 25), information about rights (para 26) and general conditions of detention (para 28) had improved since their last visit in 2014.

### 5. Sources to corroborate the impact

#### North Macedonia:

[E1] Amendments to laws relevant for the formation and functioning of the EOM [PDF available].

[E2] Council of Europe, *Conclusions of the Round Tables for presentation of the newly-established External Oversight Mechanism (EOM) over the police work* [PDF available].

[E3] Email from Senior Project Officer, Council of Europe [PDF available].

[E4a] Council of Europe, [Criminal Law Co-operation Highlights 2018](#), pp. 26-27 [PDF available].

[E4b] Council of Europe, [Criminal Law Co-operation Highlights 2019](#), pp. 26-28 [PDF available].

#### Bulgaria:

[E5] Council of Europe, [“Support for the implementation of the European Court of Human Rights judgments and CPT standards and recommendations in Bulgaria”](#), page 2 [PDF available].

[E6] Letter from Judge, Sofia City Court, Bulgaria [PDF available].

[E7] Council of Europe, [Criminal Law Co-operation Highlights 2017](#), page 13 [PDF available].

#### Georgia:

[E8] Ministry of Internal Affairs Georgia, [Project “Improvement of human rights in the temporary detention isolators of MIA” is completed](#), 20 February 2016 [PDF available].

## Impact case study (REF3)

**[E9]** Office of the High Commissioner for Human Rights, Reply from Ministry of Justice of Georgia, document 49/10089. See page 8, referring to the draft Standard Operational Procedures being sent to Murdoch “for final review” **[PDF available]**.

**[E10]** Order #423 of the Minister of Internal Affairs of Georgia, August 2, 2016 Tbilisi, [On Approval of the Typical Charter of the Standard Operating Procedures of the Temporary Detention Isolators of the Ministry of Internal Affairs](#) **[PDF available]**.

**[E11]** [Report to the Georgian Government on the visit to Georgia carried out by the CPT](#) (CoE, CPT/Inf (2019) 16) **[PDF available]**.