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CONTENTS:

Abbreviations

Foreword

1. THE MANDATE AND ACTIVITIES OF THE NATIONAL PREVENTIVE MECHANISM

- A. The Ombudsman's mandate as a National Preventive Mechanism and its role in the society**
- B. Cooperation with the bodies and institutions**
- C. Multidisciplinary approach of the preventive visits of the NPM**
- D. Organizational structure and budget of the NPM**
- E. Visibility and transparency in the work of the NPM**
- F. International activities of the NPM**

2. PREVENTIVE VISITS IN 2012

- A. Police stations**
- B. Penitentiary-Correctional institutions**
- C. Psychiatric hospitals**
- D. Other visited places**

3. FOLLOW UP VISITS IN 2012

- A. Completed follow up visits**
- B. Level of implementation of the given recommendations**

4. SUBMITTED OPINIONS AND INITIATIVES

- A. Opinion to the Ministry of Interior**
- B. Opinion to the Ministry of Justice**
- C. Opinions submitted to the bodies and institutions**

5. MARGINALIZED AND VULNERABLE CATEGORIES OF PEOPLE IN PLACES OF DEPRIVATION OF LIBERTY

6. GENERAL RECOMMENDATIONS

Annex 1. Overview of the activities of the National Preventive Mechanism in 2012

Annex 2. Selection of images from the visits completed in 2012 – positive and negative examples

Abbreviations

PSB	Public Security Bureau
ECI	Educational Correctional Institution
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms
EU	European Union
PI	Public Institution
CAT	UN Committee against Torture
PCI	Penitentiary Correctional Institution
CPT	European Committee for Prevention of Torture
MoI	Ministry of Interior
MoH	Ministry of Health
MoJ	Ministry of Justice
ICCPR	International Covenant on Civil and Political Rights
MLSP	Ministry of Labor and Social Policy
ORM	Ombudsman of the Republic of Macedonia
O-NPM	Ombudsman - National Preventive Mechanism
NPM	National Preventive Mechanism
OSCE	Organization for Security and Cooperation in Europe
UN	United Nations
OPCAT	Optional Protocol to the UN Convention against Torture and other cruel, inhuman or degrading treatment or punishment
DRCI	Department on reinforced correctional influence
SPT	Subcommittee on Prevention of Torture
PS	Police Station
PSGJ	Police Station of General Jurisdiction
RM	Republic of Macedonia
SIA	Sector on Internal Affairs
UNHCR	United Nations High Commissioner for Refugees
CSW	Center for Social Work



Distinguished,

You are looking at the second report of the Ombudsman – National Preventive Mechanism (NPM) that contains the analysis of the conditions, conclusions and recommendations for overcoming the assessed disadvantages of the places of deprivation of liberty that have been visited by the NPM during 2012.

In the past two years the Ombudsman – National Preventive Mechanism (NPM) managed to establish a structure that efficiently identifies the conditions and the risks that may lead to violation of the human rights, even to torture or other cruel and inhuman treatments or punishments and is responding appropriately to the challenges by undertaking concrete measures, referring to recommendations, but also by giving opinions and initiatives for amendments of the existing legal solutions and praxis.

The NPM has prepared separate reports for the 32 completed preventive visits for the reporting year and it addressed 500 recommendations to the places of deprivation of liberty and the competent ministries, in order to improve and overcome the disadvantages and to remove the identified risks.

During the reporting year the NPM began the implementation of follow up visits which served to assess the level of implementation of the recommendations issued in the separate reports for the regular visits which were paid during 2011. At the same time, for the preventive visits the Ombudsman – National Preventive Mechanism included external professional collaborators and thus, provided multidisciplinary approach of its work.

We have a long way ahead of us in order to reach the desired goal. The Ombudsman – National Preventive Mechanism will continue its commitment on reinforcing the knowledge and the capacities, striving to widen the competence for the visits and deepening the awareness of the citizens and institutions for the need of preventive activities, in order for them to fully and efficiently implement our recommendations.

Sincerely,

**Ombudsman
Ixhet Memeti**

1. THE MANDATE AND ACTIVITIES OF THE NATIONAL PREVENTIVE MECHANISM

A. The Ombudsman's mandate as a National Preventive Mechanism and its role in the society

The Republic of Macedonia has signed the Optional Protocol to the UN Convention against torture on 01.09.2006, whereas the Assembly of the Republic of Macedonia has ratified the protocol on 30.12.2008. It also assigned the Ombudsman to act as the National Preventive Mechanism (NPM) in the Republic of Macedonia. After the adoption of the Law on Ratification of the Optional Protocol to the UN Convention against torture and other cruel, inhuman or degrading treatment or punishment by the Republic of Macedonia, the Ombudsman has undertaken concrete steps in order to establish the mechanism. The amendments and additions to the Law on Ombudsman (September, 2009) strengthened the role of the Ombudsman regarding the monitoring of the conditions and obeying the organizations and institutions where the liberty of movement is restricted. These legal amendments within the frames of the Ombudsman created a separate department (National Preventive Mechanism) and its main task is prevention of torture and other types of cruel, inhuman or degrading treatment or punishment.

Pursuant the Optional Protocol to the UN Convention against torture and other cruel, inhuman or degrading treatment or punishment (OPCAT) the National Preventive Mechanism has the following competences:¹

- a) to regularly inspect the treatment of persons deprived of liberty at the places of deprivation of liberty, as defined in Article 4, for the purpose of strengthening, if necessary, their protection against torture and other cruel, inhuman or degrading treatment or punishment;
- b) to issue recommendations to the relevant bodies for the purpose of improving the treatment and the conditions of persons deprived of liberty and prevention of torture and other cruel, inhuman or degrading treatment or punishment taking into account the relevant norms of the United Nations;
- c) to submit proposals and findings regarding the current or draft-legislation;

In order to be able to implement its competences into praxis, the National Preventive mechanism has the following competences pursuant to Article 20 of OPCAT:²

- a) access to all information related to the number of persons deprived of liberty, as defined in Article 4, including the number of places and their locations;
- b) access to all information related to the treatment of those persons, including the circumstances of their deprivation of liberty;
- c) access to all places of deprivation of liberty and their facilities and buildings;
- d) opportunity for private interviews with the persons deprived of liberty, without witnesses, personally or with interpreter, if deemed necessary, as well as with any other person who in the NPM's view may supply relevant information;

¹ Article 19 of the Optional Protocol to the UN Convention against torture and other cruel, inhuman or degrading treatment or punishment (OPCAT), UN General Assembly (A/RES/57/199), 18.12.2002

² Article 20 of the Optional Protocol to the UN Convention against torture and other cruel, inhuman or degrading treatment or punishment, (OPCAT), UN General Assembly (A/RES/57/199), 18.12.2002

- e) freedom to choose which places are to be visited and which persons are to be interviewed;
- f) freedom to contact the SPT, and to send them information and hold meetings with them.

The National Preventive Mechanism is obligated to keep any information disclosed to it by the state government bodies and the persons deprived of liberty confidential and must refrain from revealing any personal data without explicit consent of the person.

The National Preventive Mechanism receives its mandate and competences from the Optional Protocol to the UN Convention against torture and other cruel, inhuman or degrading treatment or punishment and the Law on Ombudsman, and it also has prepared a Rulebook on the manner of performance of the prevention and methodology for conducting preventive visits (on the manner of conducting preventive visits). The National Preventive Mechanism implements its activities pursuant to the Annual Program for Work approved by the Ombudsman.

In cooperation and based on previous consent of the Ombudsman, the NGOs registered in the Republic of Macedonia and the organizations that have the status of humanitarian organizations in the Republic of Macedonia can undertake some of the competences of the national preventive mechanism.

The National Preventive Mechanism in the Republic of Macedonia since its beginning and in 2012 has three counselors for prevention of torture and other cruel, inhuman or degrading treatment or punishment.

B. Cooperation with the bodies and institutions

During 2012 the focus of the preventive visits of the NPM was on the Penitentiary-Correctional institutions and the psychiatric hospitals. During this period all the Penitentiary-Correctional institutions and public health institutions – psychiatric hospitals in the Republic of Macedonia were visited. In 2012 a total of 32 preventive visits have been completed in places of deprivation of liberty. During the visits the NPM came into satisfactory and constructive cooperation of the officials and established an unobstructed insight in all the facilities, objects and installations, on their personal choice, as well as interviews with persons deprived of liberty, without surveillance and witnesses.

The NPM's team never faced limitation of their movement, or the freedom of choice of persons for interview. The National Preventive Mechanism, based on the situation, is preparing a separate report that contains the conditions and the appropriate recommendations that need to be undertaken due to improvement of the conditions and behavior with the persons in the places for deprivation of liberty.

The National Preventive Mechanism managed to establish a constructive dialogue with the state bodies and institutions in a manner in which they will continuously monitor the conditions of the implementation of recommendations by the state bodies and institutions. The competent bodies, officials in the institutions, and organizations where the liberty of movement is limited, pursuant to Article 3 of the Law amending and adding to the Law on Ombudsman, are obliged to act according to the recommendations of the Ombudsman and to report their activities within 30 days, starting from the day when they received the separate report.

The NPM received timely answer for the separate reports and recommendations during 2012 from only 12 bodies and institutions within the stipulated deadline, whereas for the remaining reports the NPM's team additionally sent remarks in order to receive the answer from the competent institutions. After the remarks, all the bodies appropriately have sent replies to the separate reports and during the preparation of the Annual Report, the NPM was still waiting for a response from three bodies/institutions where the legal deadline of 30 days was still not expired.

With regards to the acts of the four competent ministries (Ministry of Interior, Ministry of Justice, Ministry of Labor and Social Policy and Ministry of Health), the NPM has received timely responses in 16 of the cases for the submitted separate reports of the regular and follow up visits, whereas for the other reports, they sent remarks to the appropriate ministries out of which most of them were sent to the Ministry of Interior, and only one to the Ministry of Health of the Republic of Macedonia. During the preparation of this Annual Report, the NPM is still awaiting for a response for three reports, where the legal deadline of 30 days was still not expired.

The NPM wants to underline the initiative of the Ministry of Interior of the Republic of Macedonia for having regular working meetings where they will discuss the concrete remarks, recommendations and opinions of the NPM. The first meeting of this kind was held on 09.10.2012 with representatives of the Sector of Internal Control and the Professional Standards of the Ministry of Interior and representatives of the Sector for police and criminal deeds within the National Security Bureau (Ministry of Interior). At the meeting, they have discussed the conditions and the recommendations regarding the submitted separate reports, and at the same time, the NPM was informed for the conclusion of the working group regarding the fact which PSGJ meets the necessary standards for detention. At the meeting it was agreed that the NPM will be delivered with the action plan for renewal of the facilities for detention in the police stations in the period of 2012-2015.

C. Multidisciplinary approach of the preventive visits of the NPM

The Ombudsman – National Preventive Mechanism in the reporting years has provided multidisciplinary approach for the preventive visits by signing a Memorandum on Cooperation with the Association of Psychiatrists of the Republic of Macedonia. Pursuant Article 4 of the Law on Ratification of the Optional Protocol to the UN Convention against torture and other cruel, inhuman or degrading treatment or punishment (Official Gazette of the Republic of Macedonia, no. 165/2008), the Ombudsman – National Preventive Mechanism agreed that the Association of Psychiatrists of the Republic of Macedonia, being a professional association of the psychiatrists to undertake part of the competences of the national preventive mechanism respectively to undertake the competences and activities in line of providing psychiatric expertise when performing preventive visits and preparation of separate reports. Pursuant to the Memorandum authorized representatives of the Association of Psychiatrists of the Republic of Macedonia will accompany the NPM team in the establishment of certain preventive visits and will contribute to the preparation of the separate report for the visit.

The authorized representatives of the Association of Psychiatrists will be provided with unobstructed access to the places of deprivation of liberty and their facilities and objects, as well as possibility for private interviews with the people deprived of liberty without witnesses, personally or with an interpreter, if deemed necessary. They will also have access

to the medical documents and any other relevant information that will serve to confirm the states, and at the same time they commit to obey the confidentiality of the information gathered when performing some of the competences of the National Preventive Mechanism.

The team of the National Preventive Mechanism together with an external collaborator – psychiatrist has visited PCI “Idrizovo” – Skopje, the three psychiatric hospitals and the special institution in Demir Kapija. The inclusion of the external collaborator – psychiatrist in the preventive visits of the NPM, as well as the specialist opinion and short reports prepared by the psychiatrists is of great importance for successful implementation of the competences of the NPM by providing experts’ and professionals’ approach towards the problems that are subject to analysis.

D. Organizational structure and budget of the NPM

The NPM functions as a separate organization unit within the Ombudsman and its basic task is the prevention of torture and other types of cruel, inhuman and degrading treatment or punishment. The National Preventive Mechanism works pursuant to a special methodology. This methodology, among the others, includes a system of regular preventive visits to all the places of deprivation of liberty that are under the jurisdiction of the state.

The team of the National Preventive Mechanism is consisted of three counselors for prevention of torture and other cruel, inhuman and degrading treatment or punishment. The members of the NPM are BAs in Law who meet the necessary preconditions and criteria for performance of the mandate of the National Preventive Mechanism pursuant to OPCAT. The team includes representatives of both genders and it complies with the ethnic representation.

Pursuant to Article 18 paragraph 3 of the Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, the accessing countries undertake the obligation to put at disposal the necessary resources for functioning of the National Preventive Mechanisms.³ By assigning the Ombudsman to act as a National Preventive Mechanism of the Republic of Macedonia did not allocate special funds necessary for the execution of the tasks of the NPM which arise from the Optional Protocol. Therefore, during 2012 the NPM did not have separate budget item within the budget of the Ombudsman to directly decide on the needs and to appropriately work in line of providing full operative and functional independence in their actions. The National Preventive Mechanism used funds from the general budget of the Ombudsman in order to act in 2012.

E. Visibility and transparency in the work of the NPM

In line with the provision of transparency in its work the National Preventive Mechanism used the Ombudsman’s website to timely inform the public for the activities that they realized during 2012. The Ombudsman – NPM updated short information about their activities, visits, opinions and initiatives. The same website contains relevant international regulations and standards, as well as the home legal framework for the area of prevention and protection of torture. The data is available in three languages (Macedonian, Albanian and English) at the following link:

³ Article 18 paragraph 3 of Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment

http://www.ombudsman.mk/ombudsman/MK/nacionalen_preventiven_mehanizam

The Ombudsman – NPM believes that the transparency of the work increases the awareness among the citizens of the Republic of Macedonia and the services within the bodies and institutions for deprivation of liberty regarding the condition of these places and the behavior and accomplishment of the rights among this category of people.

F. International activities of the NPM

Within the frames of the Council of Europe's project for development of the capacities of the European National Preventive Mechanisms, the Ombudsman in the role of NPM was host of the established and operative NPM teams of South-East Europe – the teams from Albania and Slovenia. At the meeting the representatives of the preventive mechanisms exchanged experiences from their work and had a joint preventive visit of the police station "Karposh" in Skopje.

At the same time, within the scope of the same project of the Council of Europe a working meeting of the National Preventive Mechanisms of Macedonia, Albania, Slovenia and Serbia was held in Tirana, Republic of Albania. At the meeting experiences and methodologies were exchanged for the visit of the psychiatric institution and also, they had a joint visit to the University Psychiatry Clinic in Tirana. There, they issued recommendations for overcoming of the stated disadvantages.

A representative of the National Preventive Mechanism took participation at the working meeting in Geneva, Switzerland. This meeting was organized and supported by the Council of Europe through the Project for establishment of an active network of the National Preventive Mechanisms. Besides the National Preventive Mechanisms there were other international bodies that deal with the prevention and protection of torture and other types of cruel, inhuman and degrading treatment in cases of deportation of illegal immigrants. At the same workshop there have been experts from the European Committee on Prevention of torture, the Subcommittee on prevention of torture, the Association for prevention of torture, representatives of the European Union and members of the International Organization for Migration.

The international activities continued and a representative of the NPM took participation at the 9th themed workshop of the European National Mechanisms on the subject "Illegal immigrants, Frontex and the National Preventive Mechanisms". This workshop was held under the auspices of the Council of Europe in Belgrade, Republic of Serbia. At the meeting there have been representatives of most of the NPMs in Europe, and the discussion was in line with the assessment of the possible role of the NPMs in the monitoring of the return of the illegal immigrants in their respective countries, as well as the acceptance of the returned immigrants pursuant the readmission agreements. The representative of the National Preventive Mechanism of the Republic of Macedonia addressed the participants at the workshop.

Within the frames of the twinning project for support of the Ombudsman where the Spanish Ombudsman and the Mediator of France took participation, three activities have been implemented during 2012. The first activity was a working meeting with the Spanish National Preventive Mechanism (NPM) where experiences have been exchanged regarding the preventive visits of the places of deprivation of liberty. The two teams jointly visited the Police Station in Kavadarci and gave their insight and recommendations for improvement of

the conditions and treatment with the detained and apprehended people. In the second activity of this project a representative of the NPM took participation in the study visit of the Spanish Ombudsman. During the study visit the representative of the NPM had working meetings with the hosts, and at the same time they visited a juvenile center in Madrid. Under the auspices of the same project the last activity took place in the form of a working meeting with the Ombudsman in the role of NPM and representatives of the Spanish and French NPMs. During the working meeting the annual reports of the Preventive Mechanisms for 2011 were presented. The Macedonian NPM presented the separate report for the visit to the Police Station in Kavadarci. At the last meeting the importance of the cooperation was underlined, as well as the need for continuation of similar activities in order to have a successful realization of the competences that NPM has in the domain of protection of human rights.

The Association of Mediterranean Ombudsman organized training in Paris on the topic “The Mediators’ and Ombudsman’s dealing with the phenomenon of migration”. A representative of the Macedonian National Preventive Mechanism took participation. The training included topics for implementation of the standards of the Council of Europe and the European Court of Human Rights regarding the treatment with the immigrants. Furthermore, they discussed how the Ombudsman communicate and contact the European agencies which perform the return of the illegal immigrants who control the outside border of the EU. They also discussed about the influence of the Ombudsman over the public policies which regulate the procedure and the treatment of the immigrants, the condition of the unaccompanied juveniles, as well as other national and international standards for protection of the immigrants.

2. PREVENTIVE VISITS IN 2012

Pursuant to the competences regarding the ratification of the Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment the Ombudsman – National Preventive Mechanism prepared an annual plan for prevention of torture and pursuant to the plan, undertook activities in several aspects.

The National Preventive Mechanism has a competence to interrogate the treatment with the people deprived of liberty in the places of deprivation of liberty, to give recommendations to relevant bodies in order to improve the conditions of the people deprived of liberty and to submit proposals and insights regarding the existing or draft legislation.

According to their competences the team of the National Preventive Mechanism during 2012 had an unobstructed access to the data that refer to: the number of people deprived of liberty, the behavior with these people, the conditions of their deprivation of liberty, as well as access to all the places of deprivation of liberty and their facilities and objects. This team was enabled to have private interviews with the people deprived of liberty, as well as with any other people for whom the National Preventive Mechanism believes that they can give relevant information. Furthermore, the NPM had total freedom in the choice of the places they have visited and the people to whom they talked.

In 2012 the National Preventive Mechanism had 32 preventive visits out of which 25 were regular and 7 were follow up visits. During the regular visits of the places of deprivation of liberty the NPM assessed the conditions for stay and accommodation of the people deprived of liberty, the accomplishment of the rights as well as the identification of possible risks of torture and other types of cruel, inhuman and degrading treatment or punishment. The follow

up visits helped the team of the National Preventive Mechanism to assess the implementation of the recommendations given in the separate reports for the visits that have been paid in 2011. All the regular visits were made unannounced in 12 police stations, 7 penitentiary-corrective institutions, 3 psychiatric institutions as well as 3 other institutions (reception center for foreigners, PI Special Institution in Demir Kapija and PI for children with educative-social problems “25 May” in Skopje). For these visits the department for prevention prepared and delivered separate reports which contained the conditions and recommendations to the appropriate institutions and competent ministries. The follow up visits were paid to five police stations of general jurisdiction, one penitentiary-corrective institution and the education-corrective institution.

A. POLICE STATIONS

In 2012 the National Preventive Mechanism paid unannounced visits to 12 police stations of general jurisdiction (PSGJ) which according to the decision of the Ministry of Interior are determined as places for detention of people. Pursuant to the decision the people can be detained in all 38 police stations of general jurisdiction. According to the annual program of the National Preventive Mechanism the following police stations were visited: PS Karposh, PS Centar, PS Sveti Nikole, PS Radovish, PS Kavadarci, PS Kratovo, PS Debar, PS Gevgelija, PS Delchevo, PS Gjorche Petrov, PS Struga and PS Gazi Baba. The regular visits of the police stations were paid pursuant to the annual program of the Ombudsman – National Preventive Mechanism and pursuant to the previously determined methodology of work. According to the methodology the Ombudsman – National Preventive Mechanism prepares separate reports on each visit. The separate reports of the NPM are confidential and contain analysis of the conditions, conclusions and recommendations for overcoming the disadvantages. The reports for the visits to the police stations in 2012 are prepared and delivered separately. Each report contains positive and negative conditions as well as recommendations on two levels:

- to the governing body of the visited institution on the conditions within the competence of that body and the ways and measures to be undertaken by the institution itself for the purpose of overcoming the weaknesses detected, and
- to the next body up in the hierarchy (the ministry), which demand meeting certain technical and material preconditions, budget implications, amendments to laws and regulations, for the purpose of improving the weaknesses detected.

The regular preventive visits were mostly made without announcements i.e. 10 out of 12 were unannounced. The visits to PS Karposh and PS Kavadarci were announced without pointing a date due to the presence of the delegations from the National Preventive Mechanisms from Slovenia, Albania and Spain. In the police station Karposh the National Preventive Mechanism had a joint visit with representatives of the NPMs of Slovenia and Albania whereas within the frames of the Twinning project for support the NPM had a joint visit to PS Kavadarci with the team of NPM Spain.

During the visits of the police stations the NPM found a constructive cooperation by the officials and had an unobstructed insight in all the facilities and documents which regulate the matter of detention of people deprived of liberty.

Treatment of the people deprived of liberty

During the visits of the police stations the NPM encountered two detained people in the PS Centar and two detained people in PS Kratovo. During the interview with one of the detained people the NPM received a complaint that the person was not treated in professional manner from the moment when they were deprived of liberty and they were not informed of the reasons for apprehension nor why they were taken to the police station (PS Centar). Furthermore, the person complained on the physical maltreatment received from several of the police officers who hit them in the head and back during their stay in the station.

In the same police station during the interview with the second detained person the NPM confirmed the story that the first-detained person was hit by the police officers and they were not enabled to have water at their request. The second-detained person underlined that they were not informed about the reasons for the apprehension made by the Special unit for combat with the criminal "Alfi". Afterwards, when brought to the PS Centar they were detained in the detention room and then transferred to the waiting room, because the first-detained person was placed in the detention room. This person also stated that they were not given food or water during their detention in the station. The NPM told both persons that they can submit complain and ask for protection from the Ombudsman. During the review of the individual folders it was assessed that the people were informed about their rights. This was contained in the detention report.

In the separate report sent to the PS Centar and the Ministry of Interior the NPM stated concern for the manner of detention of people in this police station especially during the night and in situations when two or more people should be detained because this police station has only one individual detention room. At the same time, the NPM requested review of the allegations for physical maltreatment and the impossibility to accomplish the right to food and water which needs to be enabled by the officials.

During the interviews with the detained persons in PS Kratovo the NPM did not receive complaints for physical maltreatment by the police officers in the time of detention in police station, as well as regarding the accomplishment of the rights in the police procedure. However, they were informed that the people during the apprehension were threatened by the officials.

Material conditions:

Detention rooms

During the visits in 2012 there was an insight in 4 Police stations of general jurisdiction that have new and reconstructed detention facilities and 8 Police stations of general jurisdiction with old facilities. In general, the old detention facilities do not comply or partially comply with the international standards. During the visit of the police stations the team realized that there are detention facilities in basements (PS Delchevo, PS Kavadarci, PS Radovish) as well as facilities that do not meet the standards regarding the size, heating and light (PS Sveti Nikole, PS Kratovo, PS Debar). Due to the lack of appropriate detention facilities for people deprived of liberty in PS Struga and PS Gjorche Petrov people are kept in the offices. Although in the police station in Struga there are four detention rooms for people deprived of liberty, these facilities are not used because they don't have the appropriate conditions and the people who are deprived of liberty are accommodated in the offices. This

facility does not have the suitable appliances for rest (bed, mattress, sheets) and does not fulfill the conditions for longer detention during the night hours. The National Preventive Mechanism was informed that the detention in this facility is temporary i.e. in short intervals, but according to the registry of people deprived of liberty it was confirmed that in the Police station in Struga there are longer nightly detentions.

The police station in Delchevo has three detention facilities in the basement which are situated in a separate object that is physically separated from the police station. The National Preventive Mechanism has assessed that several police stations have detention facilities which put the detained person in degrading position by placing them in the basement facilities (PS Delchevo, PS Kavadarci, PS Radovish). They are also directly exposed to the views of the employees or to the citizen who come to report something in the Police station (PS Kavadarci and PS Gjorche Petrov). In the police station Delchevo that has basement facilities there is no access part for disabled individuals. The access to the facilities has stairs which may lead to danger the person deprived of liberty. The NPM has concluded that the detention facilities in PS Delchevo can be accessed only by stairs which are very narrow, steep and unsecured and this increases the risk of injury not only for the people deprived of liberty, but also for the police officers.

The facilities of the PSGJ Sveti Nikole are in the basement part of the police station and can be accessed only by stairs. Therefore, they do not fulfill the criteria for access of disabled people. At the same time, PS Sveti Nikole does not have a back entrance for these facilities which would be used to bring in the apprehended and detained people.

In the police station Gjorche Petrov the NPM concluded that the old detention facility is near the waiting room and the entrance of the police station. Therefore, the person deprived of liberty can be in a very degrading position even when they are there for a short period. PS Gjorche Petrov does not use this facility due to lack of conditions so the people deprived of liberty stay in the meeting room (when detained briefly) or are being transferred to the PS Karposh, when detained for a longer period. Bearing in mind the fact that the detention facilities in PS Debar do not meet the criteria, this police station performs the detention in a separate facility that is on the ground floor and equipped with items for rest. It is also near the duty office thus providing reinforced surveillance and care for the people deprived of liberty.

Most of the visited police stations that have old facilities were assessed that do not meet the standards or partially fulfill them regarding the detention facilities. The NPM concluded that they do not meet the criteria regarding the size of the detention facility (PS Sveti Nikole, PS Radovish), part of them do not have call/alarm system (PS Kavadarci), and part of them do not have heating appliances although the temperatures were very low and under the stipulated standards (PS Sveti Nikole, PS Radovish, PS Kavadarci, PS Kratovo, PS Debar, PS Delchevo). Namely, during the visit, the facilities were very cold because there were no heating appliances and that raises the question how the facilities are heated during the winter period. The old retention facilities were very damp and some of them do not meet the criteria regarding sufficient daily or artificial light (PS Sveti Nikole, PS Radovish, PS Kavadarci, PS Kratovo).

When it comes to the equipment of the old detention facilities it was assessed that most of them had suitable sheets that are regularly washed (PS Sveti Nikole, PS Delchevo, PS

Kavadarci, PS Debar) and in two of the police stations the beds were fixed to the ground thus increasing the security of the people deprived of liberty (PS Kratovo and PS Delchevo).

Some of the visited police stations had installed call systems in order to provide better surveillance and care for the detained people (PS Sveti Nikole, PS Delchevo, PS Radovich, PS Kratovo). However, during the control in PS Kratovo the NPM assessed that the call appliance installed in the first facility was damaged while in the second one, it was not put to function. Using the call system the detained people can alarm the officials for certain cases of urgency or necessity. The NPM expressed their concern about the parts where there is no call system and about the people deprived of liberty who will not be able to timely inform the police officers for their needs. None of the old detention facilities has video-surveillance. The police officers perform direct surveillance and keep control sheets for the detained people. During the control of the facilities in PS Kratovo it was noticed that the door has a separate place for detention chart. In PS Sveti Nikole there is a direct surveillance over the detained people that are being registered on a separate control chart in order to act timely and preventive when needed. This praxis is also used in PS Delchevo, PS Kavadarci, and PS Radovich was issued with such recommendation having in mind that the people are detained in the basement facilities that do not have video-surveillance. This was made in order to protect the people that are being detained there.

The insight conducted by the National Preventive Mechanism raised concern about PS Struga where the detained people are placed in an official office that does not meet the safety standards for accommodation of people deprived of liberty and does not have appropriate rest items. Pursuant to the insight in PS Struga it was concluded that one detention lasted for more than 15 hours and it was executed during the night, as well as the detention of a juvenile who was kept during the night i.e. from 18.50 until 6.30 the next day. There was no information that the people were transferred to another police station and the shift manager confirmed that the same facility is used for nightly as well as for longer detentions. In that line, the NPM requested information from the Ministry of Interior and was informed that pursuant to the Action plan for reconstruction of police stations, PS Struga is marked as a priority especially when considering the conditions of the old detention facilities and the temporary detention of the people deprived of liberty who are being kept in the offices.

During the insight of the police stations that have new detention facilities the NPM concluded that they meet the requested standards. Also, a high degree of security measures has been implemented in the choice of materials and construction of the detention facilities. The NPM stated that these facilities have been made of materials that enable high level of protection of the people, and an additional measure is the fact that all the new facilities have appropriate video-surveillance. Furthermore, the beds are fixed to the floor that disables their inappropriate use and misuse. In 2012 the NPM visited PS Karposh, PS Centar, PS Gevgelija and PS Gazi Baba. Part of them (PS Karposh) were said that do not fulfill the criteria set up by the European Committee on prevention of torture (CPT) regarding the size i.e. that the individual facilities are smaller than the established standard 6-8m² (in PS Karposh one of the facility had an area of 4,77m², and the second one 5, 70 m²). A similar condition was met in the PS Gazi Baba, unlike PS Gevgelija and PS Centar where it was assessed that they meet the international standards regarding the size. It needs to be underlined that the Ministry of Interior has still not delivered the appropriate questionnaire for assessment of the standards that need to be met by the detention facilities in the police station. These four police stations have been part of the project implemented by the Ministry of Interior and funded by the

European Union. In the past year the Ministry prepared a questionnaire for the general norms and standards that need to be met by the detention facilities in the police stations of general jurisdiction. However, there is a procedure for amendments and additions to the project and the Ombudsman – NPM gave its opinion on that.

Regarding the equipment of the new detention facilities it was assessed that the new facilities have standard beds that are suitably dressed for overnight sleeping, but in PS Gevgelija the beds did not have sheets and pillows. In Gazi Baba it was assessed that in the detention facilities the pillowcases were dirty and not replaced.

There is a video-surveillance in the detention facilities that presents additional measure for protection of the people deprived of liberty especially when visibly disturbed or people who have drive to injure themselves. The video-surveillance is used to monitor the detained people through a monitor placed in the duty service. The halls which lead to the detention facilities and the interrogation rooms also have video-surveillance. The NPM controlled the functionality of the video-surveillance and stated that it is unobstructed but PS Gazi Baba was stated that did not have functional cameras. Furthermore, the speaking tube in PS Gazi Baba was not working so, a question was raised about how the detained people call the police officers when they need them bearing in mind that the cameras were not working.

The police officers said that the video surveillance is not working properly during the night hours. Also, in PS Centar it was assessed that the camera installed in the detention room produces partially blur image. The video surveillance is installed only in the new detention facilities. The same is not installed in the toilets in order to protect the privacy and integrity of the people deprived of liberty. The Police station in Gevgelija has a clear sign that informs the people deprived of liberty that there is video surveillance. The recordings of the video-surveillance are kept in the Ministry of Interior. Having in mind that NPM received complaint from a detained person in PS Centar that they have been physically maltreated during the detention, and the same thing occurred in the police station that is beyond the scope of the video surveillance, the NPM requested access to the video recordings in order to confirm whether the person was placed outside the detention room.⁴ In order to assess the state and in line with the decrease of the future risks of unwanted treatment of the police officers of this station, the NPM requested the Ministry of Interior to give them access to the video-surveillance of the six internal cameras in PS Centar. The Ombudsman – National Preventive Mechanism was informed the Ministry of Interior cannot provide the requested material, having in mind the short term of 14 days for keeping the data in the central database. However, the NPM believes that they were not enabled access to the requested materials having in mind that the request to the Ministry was submitted in timely manner.

The NPM recommended the police stations of general jurisdiction that have new detention facilities to use the existing, old facilities for other purposes (storage, repository, etc.). Otherwise, there is a risk that these facilities will be used again for detention of people in cases when there is lack of place. So, NPM assessed that the old facilities in PS Karposh and

⁴ The person stated that before being placed in the detention room, they were taken down the stairs to the basement facilities, where they were handcuffed with the hand-cuffs on one hand, and the other part of the handcuffs was tied to the metal banister of the stairs. In this position the person was beyond the reach of the video cameras installed in the police station. The person complained that they were left in this position for about 15-20 minutes until calmed, and during that time, they were physically harassed (hit on the head and back) from several police officers.

PS Gazi Baba do not have explicit change in the use and that they have not been used for a long time (there were spider webs throughout the facilities).

Regarding the access to the police stations the NPM assessed that in the most of the cases there is no ramp for the disabled people and people with special needs at the entrance of the police station. An access ramp to the detention facilities was noticed in PS Karposh. Although the new facilities have back entrance, there are cases when it cannot be accessed because it is blocked with vehicles (PS Centar). This police station has blocked access to the back entrance due to the narrow space and the limited parking spaces that is shared with the other objects of public character.

In the police stations of general jurisdiction there are no separate facilities for search of the detained person. Only the reconstructed detention facilities have separate safes for the temporarily confiscated items. The NPM believes that the Ministry of Interior should pay attention to equipping separate facility (wardrobe) in order for the search of the person to be performed beyond the sight of the remaining police officers and other people present in the police station. Namely, in some of the police stations the search of the apprehended and detained people is performed in the duty office. At the same time, for part of the new detention facilities (PS Centar and PS Gevgelija) it was assessed that the search of people is performed in the duty office that endangers the right of personal integrity and dignity of the apprehended or detained people.

During the insight of the police stations the NPM did not find suspicious items that can refer to pressure, intimidation or physical violence over the people. However, in certain police stations there were items which increase the risk of injuries or self-inflicted injuries among the detainees. In one of the police stations there were seized items in the offices where interviews are performed with the apprehended or detained people, as well as items that are near the detention places. Although these are confiscated items the NPM's team believes that they should be neatly registered and stored in a storage room instead of being kept in the offices and near the detention facilities. A positive example of neat storage of the confiscated items is PS Kratovo because they keep these items in a suitable place i.e. a basement facility that is appropriately secured with a metal barred door and bars on the windows. The storage for temporarily confiscated items is fully separated from the other facilities and is found in a separate object. This is additional protection from possible misuses.

Toilets

The conditions in the toilets differ and in most of the visited police stations of general jurisdiction where the detention places are not reconstructed it was assessed that there are no separate toilets for the detained people and the official who are employed in the station.

In the police station Sveti Nikole within the old detention rooms there is a separate toilet that is being used only for the detained people. A separate toilet was noticed in PS Kratovo, but the National Preventive Mechanism stated that it is not constructed in a suitable manner i.e. the access to the facilities is through the bathroom. The use of the toilet in this police station can violate the detainees' dignity and personal integrity. At the same time, it was concluded that there are possible risks for the safety of the people because there is a mirror and other fragile items in the toilet.

In the police stations of general jurisdiction where the detention places are new, the reconstructed part of the police station has separate toilets which are used only by the detainees. The general assessment is that they are new, built within the frames of the

reconstruction project for the detention places and the hygiene is satisfactory. However, similar to last-year's report, the NPM concluded that they contain fragile materials, glass, metal toilet paper holder, and part of them also have a hose and shower which may lead to self-inflicted injuries among the detainees. The NPM also pointed to the right of privacy and intimacy and that the detainees should use the toilet unaccompanied.

Interview and interrogation facilities

For the reporting year the NPM visited new and old detention facilities. As in 2011, it was again assessed that there are differences regarding the interview and interrogation facilities when it comes to the conditions. Part of the police stations do not have separate interview and interrogation facilities for the detainees, and thus, the interviews and interrogations are performed depending on the material and technical preconditions in the station and pursuant to the coordination with the inspectors who perform the conversation with the people who are suspected to have committed criminal deeds (separate facility for interviews and interrogations do not exist in PS Kratovo, PS Sveti Nikole, PS Delchevo, PS Debar). Although the new detention facilities have separate interview and interrogation rooms there is one police station (PS Gazi Baba), the NPM realized that these facilities are not being used and that the interviews and interrogation of the people are performed in the inspectors' offices. In that line, the NPM recommended use of the two facilities for interviews of the people deprived of liberty and to have these interviews only in facilities foreseen for that purpose, instead of the inspectors' offices. This comes from the fact that the interrogation rooms are equipped in manner that provides security for the detainees and for officials who are performing the interview and the interrogation of the detainees and apprehended people. As in 2011, this year the NPM again believes that it is necessary for the people deprived of liberty to be interviewed in designated facilities in the police stations, and this should be practiced in the places that have new interrogation facilities where video-surveillance is installed and additional protection measures which decrease the risks of causing injuries and self-injuries. PS Karposh was assessed that does not have fully equipped interview and interrogation rooms (computers and other appliances) and that is why the interviews and interrogations are performed in only one of them. In PS Centar and PS Gevgelija not always the interview is performed in the facility for that purpose. The people deprived of liberty are taken to interviews in the inspectors' offices.

Transport vehicles

The NPM inspected the transport vehicles and as in 2011 it focused on the use of both old and new transport vehicles for the people deprived of liberty. Although one part of the police stations has transport vehicles at their disposal in accordance with the determined standards in the part of protection, the security, and ventilation, there are still smaller police stations which do not have appropriate transport vehicles at their disposal. Namely, PS Kratovo has a Citroen van that is very old and does not work. Therefore, the transport is being performed with other vehicles which are not equipped with special security measures for both the detainees and the police officers. There was a similar situation in PS Sveti Nikole where the NPM assessed that the vehicle is old and does not have the minimum protective measures for transport of the detainees or apprehended people and it also lacks appropriate ventilation, heating and cooling. The NPM was informed that due to the unsatisfactory conditions and having in mind the human aspect, the detainees are sometimes transported seated in the front part of the van. PS Delchevo, PS Kavadarci and PS Debar have old vehicles for transport of

the people deprived of liberty. PS Karposh, PS Gazi Baba, PS Centar and PS Radovish have new transport vehicles. In these vehicles the detainees and apprehended people are separated from the police officials who accompany the people during the transport. In this manner the cruel and inhuman treatment with the detainees during the transport are avoided. The NPM believes that all the police stations of general jurisdiction that are assigned as places for detention of apprehended people should be appropriately equipped with new transport vehicles that meet the security measures for transport of people deprived of liberty.

Fulfillment of the rights of the detainees

Information and advice

Pursuant to the Rulebook on the Manner of Performance of Police duties and the Standard Operating Procedures for Detention and Treatment of Detainees, the head of shift (police officer for admission) is responsible for admission of persons, giving advice on realization of his/her rights, including continuous monitoring during the detention for the purpose of ensuring the detained persons' safety in the police station. Following the visits the National Preventive Mechanism assessed that the shift managers (head of shift) inform the people deprived of liberty about their rights in the police procedure. In part of them it was concluded that there are posters in visible places which suggest to the rights.

There are two types of posters on rights - one in three languages, the other in seven. There is no rule as to which poster will be put up in which PSGJ, so it depends on the manner of distribution of the posters and the posters available in the police station. The NPM inspected the facilities in the police stations and it determined that the advice for the rights is visible and placed in several places in the police stations. In most of the places, the rights of the detainees are suitably placed on the entrance of the station and in some of them they are pinned in the admission office or the detention facility. PS Debar does not have a separate room for interviews with the people deprived of liberty and the people deprived of liberty are taken to interview in the inspectors' offices. Therefore, in this police station the information about the rights of the people deprived of liberty are placed on the entrance of the detention facility.

In most of the police stations there were no visible signs for the rights of the people deprived of liberty in the office of the shift manager or in the detention facilities. The NPM pointed out that the rights should be pinned in these facilities so that the citizens who are detained or apprehended can be introduced to their rights as well as because the admission of these people is made in the office of the shift manager.

The Police Ethic Code was placed in the facilities which are shared and appropriately, is visible to all the police officers who are employed in the police station.

Right to food and water

The fulfillment of the right to food and water is an essential indicator for the human treatment with the people deprived of liberty and in that line, the standard operative procedures the detained person is entitled to a minimum of one meal if detained for longer than 6 hours. According to these procedures the food is provided by the personal funds of the detained

person, from the funds of their family and/or the budget of the Ministry of Interior with presentation of a receipt.

Pursuant to the information received during the visits this right is being fulfilled in different manners. In praxis part of the Police Stations of General Jurisdiction have their own food budget whereas part of the Police Station of General Jurisdiction do not have the food budget and the right to food is related to the financial position of the person deprived of liberty.

The NPM thought that each PSGJ should have a budget for meals of detained persons, as well as that each PS should keep official notes on the fulfilment of the right to food and present a receipt in confirmation of the realization of the right to food during the detention period. PS Kratovo should be underlined as a positive example because it provides meals for the detainees and delivers the receipt to SVR Kumanovo for its refund. This praxis is also used in PS Delchevo and PS Karposh.

The right to food is being fulfilled with the personal funds of the people deprived of liberty in PS Kavadarci, PS Debar⁵, PS Radovish, PS Struga, PS Centar, PS Gevgelija and PS Gazi Baba. The police officers in these police stations emphasized that they do not have a separate budget for meals so; a question was raised about what happens when the detainee does not have its personal funds to provide food or their family will not or is not able to deliver food. In what manner will the police station enable the right to food in case of detention longer than 6 hours having in mind that these rights meet the basic needs of the people and are human approach in the part of deprivation of liberty?

The shift manager in the police station Centar confirmed that the right to food is fulfilled in ways that the food is being provided if the person has money. The NPM received the same information from the detainee during the visit of the NPM to PS Centar. The detainee underlined that they were not enabled with the right to meal nor was given water when requested.

In that line, the NPM believes that the right for food and water will be mandatory provided by the budget funds of the Ministry of Interior having in mind that the people are deprived of liberty and these rights should not depend on the financial situation of the person while being kept in the station. Additionally, the NPM gave its opinion on the amendments in the Standard operative procedures according to which the food should be provided only from the budget of the Ministry of Interior and that in order to do so; there is a need of separate budgetary item. The NPM recommended that the right to food should be regulated by law together with the other rights that are guaranteed to the people deprived of liberty without regulating it only with a by-law internal act. The fulfilment of this right should be registered by filling an official note.

Right to an attorney and informing the family

The detainees in police stations very rarely realize their right to an attorney. Although, in most cases, detained and apprehended persons were instructed on their right to legal assistance, very few of them decide to use this right. The NPM determined that most PSGJ

⁵ According to the information gathered regarding the fulfillment of this right, PS Debar has no separate budget, and the food is provided from the personal funds of the detained person. In case when the detained person does not have personal funds, the food is provided from the police officers' personal funds.

have lists of attorneys available, but it was apparent that even on the rear occasions when the person asked for an attorney, it was an attorney of his/her own choice.

In PS Kavadarci the interview with the attorney is private and performed in the office of the shift manager, having in mind that this police station does not have a separate facility for interview and interrogation of the detainees. The bigger part of the police stations faces problems regarding the provision of an attorney for a juvenile.

The detainee is advised for their right to inform a member of the family. The NPM realized that unlike the right to attorney the detainees very often use this right and ask for the spouse or parent to be informed. For the juveniles there is a legal obligation pursuant to the Law on juvenile justice the informing of the parent or legal guardian is obligatory.

Right to medical assistance

The shift manager is obligated to assess the health status of detained persons upon admission and record the same in the detention report. The shift manager records any visible injuries, visible signs of illness, influence of alcohol or psychotropic substances, thereby assessing whether medical attention is required. In case of serious injuries or if the detainee complains for pain or injuries, the right to medical assistance is of priority and it is undertaken before any other activity.

Although in most of the police stations a doctor is called, from the inspection of the documents of the detainees it was assessed that in some police stations of general jurisdiction the right to medical assistance is performed upon the evaluation of the police officer. Namely, one detainee in the police station had visible injuries (a cut caused in the event) and the police officer estimated that there is no need of doctor. This point to the conclusion that the admission police officer had a personal evaluation of the need for doctor's care. Therefore, the NPM underlined that whenever the person has visible injuries, they should receive medical assistance.

For most of the police stations it was concluded that in cases when there is higher blood alcohol content among the detainees a doctor was not called by the shift manager and in that line, the NPM gave a recommendation that a doctor should be called, no matter whether the person asks for medical assistance. This should be made in order to act in line with the temporary protection of the health of the person deprived of liberty.

The NPM encountered positive examples. In PS Karposh it was assessed that if the person had visible injuries they are immediately informed about their right to medical assistance and ambulance is called. An official report for the state is being prepared and the shift manager registers the visible injuries in the detention registry. Also, in PS Radovich a doctor is immediately called when vulnerable categories of people are being detained in order to act preventively and to decrease the possible risks of injury and in order to prevent the person to inflict injuries on themselves. Part of the police stations has separate record for the right to medical assistance and this was welcomed by the NPM as a positive praxis.

Records and registers of detainees

During the visits of the police stations the NPM checked the registries of the detainees. It was assessed that in most of the police stations the Registries for daily events and the Registry of people whose freedom of movement is restricted on different base, are kept neatly and all the columns of these registries are being duly filled. In part of the police stations it was assessed that there is no monthly summary for the number of called, apprehended or detained people as stipulated with the Standard Operative Procedures and the procedures for detainees (PS Kratovo, PS Kavadarci, PS Debar and PS Gazi Baba). A positive example is PS Sveti Nikole that has a separate form (Form no. 1) for the manner of keeping the monthly and periodic summary of called, apprehended and detained people. In part of the police stations it was assessed that the Registry of called, apprehended and detained people does not show clearly for the category of people (whether called, apprehended or detained) and in certain columns the errors are deleted with a correction fluid (PS Karposh and PS Centar).

During the control of the registry for use of force the NPM stated that in most of the police stations it is being maintained and filled correctly. Furthermore, it was stated that in most of the folders the second and the third page are neatly filled, thus giving a clear review of the documents in the folder. In PS Debar there was inaccurate and out of date Registry for use of force. The cases for the period 2009 – 2012 were not registered whereas the folders for the individual detainees contained two cases from 2012 where use of force was noticed. At the same time, the registry in PS Debar did not show whether there was justification for the use of force which refers to lack of diligence among the management structures for the procedures in the cases with use of force. The NPM notices lack of diligence among the management structures in PS Centar regarding the procedures in the cases for assessment of the relevance and justification for the use of force.

The police stations Gjorche Petrov, Karposh and Struga are underlined as positive example of diligent and accurate book keeping for use of force and regarding the assessment it is clearly noted whether the injuries are result of the use of force and the additional insight and materials are taken into consideration. The registry for use of force and the registry for citizens' objections are duly maintained in PS Gazi Baba.

Regarding the control of the individual folders it was assessed that in PS Gazi Baba there is no sufficient number of folders that need to be kept for each individual case according to the standard procedures. For part of the police stations it was noted that the folders for the detainees are duly kept i.e. the second and the third page are filled correctly and contained all the relevant minutes, official notes and other documents. However, in part of the stations it was noted that the incorrect data in the police registries are deleted with correction fluid, as well as that there is inaccuracy regarding the folders for the detainees.

The control of the evidence of detainees showed that in most of the police stations was that there was no clear sign of the logical flow of the events starting from the deprivation of liberty to the detention in the police stations. These irregularities were noticed in PS Kratovo, PS Sveti Nikole, PS Radovich, PS Kavadarci, PS Debar, PS Gjorche Petrov and PS Karposh unlike PS Struga and PS Gazi Baba where in most of the folders there was a logical floor of the events. The NPM stated irregularities regarding the time of deprivation of liberty until the termination of the detention in the police station, as well as the information for the right of

attorney and other rights regarding the police procedure and this pointed to suspicion about the regular determination of the time when the deprivation of liberty occurred.

The NPM also noticed that in several police stations there is no correct registration of time when the deprivation of liberty started/ended (PS Debar, PS Gjorche Petrov, PS Struga and PS Gevgelija). PS Centar showed several irregularities regarding the time of deprivation of liberty and the time of detention.

The general assessment shows that the police stations neatly keep the minutes for detention with several irregularities in several police stations. Namely, in PS Debar the NPM stated that in several cases the evidence for detention of people were not fully and duly filled, especially concerning the data for the visible injuries and the need of medical assistance. PS Karposh and PS Centar showed that not everywhere the existence/non-existence of visible injuries and the need of medical assistance were filled.

In some of the police stations there were documents where the police officer who carried out the interview with the person deprived of liberty was noted and in that line, a positive example can be seen in the evidences of PS Kratovo. Their evidences contain this kind of data and there is also a surveillance control sheet which shows when the detainee was checked bearing in mind that their facilities are not equipped with audio and video monitoring and the call system is not functioning. A separate surveillance control sheet for the detainees is also being kept in PS Kavadarci and PS Delchevo.

In line with the prevention of possible injuries and infliction of self-injuries as well as decrease of the risks of torture and other kind of inhuman acts by the police officers it was assessed that some of the police stations of general jurisdiction introduced additional documentation on their own initiative. This is a good example. PS Kratovo has report for the right to medical assistance and a note signed by the doctor to confirm the event.

The right to food and water which presents human approach to the people deprived of liberty is confirmed with an official note prepared in PS Delchevo and this positive praxis should be established in the other police stations in order to register the fulfillment of these rights which satisfy the fundamental needs of the people while deprived of liberty.

Answers from the police stations and the Ministry of Interior in the Republic of Macedonia

The Law amending the Ombudsman, Article 3, stipulates that “the officials in the bodies, organizations and institutions where the freedom of movement is restricted are obligated to act upon the directions and recommendations of the Ombudsman and to inform the Ombudsman within 30 days starting from the day when the separate report was received”.

The Ombudsman – National Preventive Mechanism was informed through the responses that the officials have acted according the recommendations that are under the authority of the stations. Those recommendations that do not refer to the police stations are directed to the competent services.⁶ Regarding the delivered responses the NPM was informed that the conditions and recommendations contained in the separate reports have been implemented

⁶ For certain recommendations the head of the office for criminal affairs is informed in order for the employees to comply with the recommendations issued by the NPM or the recommendations that refer to the improvement and adaptation of the detention facilities pursuant to the stipulated standards the police station(s) refer to the competent Ministry.

and there have been several working meetings in the police stations in order to overcome the negative conditions and to improve the facilities where people deprived of liberty are detained.

Regarding the allegations for physical abuse of the detainee, the NPM was notified by the Police Station that the Sector for Internal control and professional standards has reviewed this case in order to assess the responsibility of the police officers. According to the responses of the police stations the NPM was informed that the police stations have acted pursuant to NPM's recommendations and in order to fulfill the right to food and water, the police stations were indebted with a certain sum of funds by the authorities – Sector for internal affairs.

Regarding the case of inaccuracy in the domain of preparation of the assessment for justification of the use of force the NPM was notified that they will act immediately upon the notification.⁷ The police stations agreed to call for medical assistance for the people who have a high level of alcohol in their blood system in order to prevent possible risk, no matter whether the people have asked or not for medical assistance.

The police stations which have new detention facilities accepted the recommendation that the people should be brought in through the back door intended for entrance of the people deprived of liberty; to perform the search in the room intended for interview, and to perform the interview with the people deprived of liberty exclusively in the facilities intended for that purpose that have video-surveillance installed and not in the inspectors' offices.

The police stations which use old detention rooms accepted the recommendations to use them for a short period, not longer than 4 hours, until new detention facilities are built.

Having in mind that PS Struga does not have conditions for detention of people and they are kept in the offices of the chiefs, the National Preventive Mechanism issued a recommendation to re-adapt a certain room that will be used exclusively for detention of people and for nothing else. PS Struga submitted a response that a new facility cannot be re-adapted and that the detention will still be made in the chief's offices.⁸ According to the response, the Police station of general jurisdiction Struga did not act upon the recommendations for the search of the people deprived of liberty to be performed in separate office and not in the chief's office that is also being used as an office for admission of people. When it comes to the recommendation for additional surveillance of the people deprived of liberty when using the personnel's toilets (bearing in mind the privacy and personal integrity of the detainees), the National Preventive Mechanism was not informed about how PS Struga will act upon the recommendation. They were only informed that in PS Struga the same toilet will be used for both the detainees and the personnel.

The recommendations regarding improvement of the registration were also accepted, as well as the registration of the logical flow of the events starting from the day when the deprivation of liberty started and bearing in mind the legally foreseen deadline of 24 hours.

⁷ Information received from PS Centar

⁸ After the response from MoI the NPM was informed that the PSGJ Struga does not have detention facilities that will meet the appropriate conditions and that until the construction of new facilities the offices of the chiefs or the shift manager's office will be used. When there are more people for whom special treatment is needed, they will be taken to PS Ohrid.

The Ministry of Interior informed the NPM that a working group was established which had prepared a Rulebook for the general norms and standards that need to be fulfilled in the detention facilities within the frames of the police stations of general jurisdiction. The Rulebook is being amended and NPM gave its opinion. It is expected for this Rulebook to be finalized in the following period. Another working group is formed that has prepared a report for the police stations and the needs of interventions in order to meet the stipulated standards. Action plan is adopted that was delivered to NPM upon request. The same action plan is multiannual and includes reconstruction of several police stations on annual basis.

Due to noncompliance with the standards in the detention rooms in PS Gjorche Petrov and PS Chair⁹, the Ministry of Interior submitted a notification that says that these facilities are no longer used for detention.¹⁰

According to the Ministry of Interior the provision of attorney for juveniles is still a problem pursuant to Article 109 of the Law on Juvenile Justice. Furthermore, the MoI does not agree with the positioning of boards that will contain the rights of the people deprived of liberty in the detention facilities due to security reasons although the National Preventive Mechanism issued a recommendation for “the rights of the people to be pointed in visible places in the detention facilities and the room for interviews”. This does not mean that the rights should be placed on boards that will present risk but these can be printed on posters on A4 sheets of paper.¹¹

The Ministry of Interior said that the searches which were performed in the duty office are isolated ones and that in fact, the searches are being performed in a separate facility according to the standard operative procedures. The NPM was informed through a letter that there is professional surveillance performed by the Sector for police and criminal affairs in the Public Security Bureau over the registration of the people deprived of liberty and directions are given to remove the disadvantages. At the same time, the Sector on internal control and professional standards controls the behavior of the police officers with the people who have restricted freedom of movement pursuant to the standard operative procedures for called, apprehended and detained people.

The Ministry of Interior submitted responses which pointed that the Ministry works on creation of appropriate material and technical conditions depending on the financial possibilities as well as reinforcement of the human resources in view of providing higher degree of protection of the human rights of people who are called, apprehended or detained in the police station. Furthermore, the competent sectors on internal affairs are informed about the disadvantages in part of the police stations and the detention facilities: maintenance of the new rooms for interview of the people deprived of liberty, bearing in mind that they are equipped and under video surveillance; the cameras that are out of order should be repaired, as well as the call system.

⁹ Follow up visit to PS Chair was paid

¹⁰ The NPM received additional information from SVR Skopje that four police stations (PS Gjorche Petrov, PS Chair, PS Aerodrom and PS Drachevo) have detention facilities which do not comply with the standards and are not used.

¹¹ PS Kratovo submitted a response that the rights of the detainees are pointed on the internal side of the doors of the detention rooms, as it is the case with PS Kavadarci and PS Delchevo.

B. PENITENTIARY-CORRECTIONAL INSTITUTIONS

During 2012 the National Preventive Mechanism had a total of nine preventive visits to penitentiary-corrective institution (PCI) and educational-corrective institutions (ECI). Seven of them were regular, whereas two were follow up visits.

The regular visits were paid to: Penitentiary-correctional institution (PCI) Struga, prison Strumica, prison Tetovo, Penitentiary-correctional institution (PCI) Shtip, prison Prilep, prison Bitola and Penitentiary-correctional institution (PCI) Idrizovo, while the follow up visits were paid in prison Skopje and the Educational - Correctional institution Tetovo (*for more on the follow up visits see section C*).

All of the visits were unannounced. Most of them were one-day visits whereas the visit to PCI Shtip lasted two days and the visit to PCI Idrizovo lasted three days. The visits in the penitentiary-correctional institutions included control of the prison and apprehension sections, as well as the auxiliary facilities, the recreational facilities and the economic parts of the institutions. During all the visits there have been confidential and individual interviews with people deprived of liberty, as well as interviews with the management structures, representatives of the sector of re-socialization and health care and the employees in the security sector. The NPM used each visit to review the health charts of the convicted and/or apprehended people, by random choice, as well as the files of the convicted people and other registries that are kept in these institutions.

The Ombudsman – National Prevention Mechanism encountered full cooperation of the management and had unobstructed insight in all the places by their own choice including the confidential conversations with the convicted (prisoners), apprehended and protégés.

From the visits made in 2012 to the PCIs and ECIs the NPM concluded that the material conditions of the institutions do not meet or partially meet the internal and international standards and that the law on execution of the sanctions, the by-laws and the protocols are not fully implemented in praxis. The NPM also assessed that the Annual program of the Government of the Republic of Macedonia for reconstruction of the PCIs and ECIs¹² is not fulfilled as stipulated and that part of the activities will be transferred to 2013.

For each visit Ombudsman - NPM prepared separate report where it stated the positive and negative conditions and issued appropriate recommendations directed towards the Directorate for execution of the sanctions within the Ministry of Justice and the management of the PCI for further removal of the identified disadvantages.

¹² Program on financing of the construction, reconstruction, maintenance of objects and equipping the penitentiary-correctional and educative-correctional institutions for 2012 adopted by the Government of the Republic of Macedonia on a session held on 9.1.2012.

B.1 Material conditions

1. Admission Unit

The material conditions in the admission units in the penitentiary-correctional institutions are different and it depends on the size of the institution and its capacities. In praxis, there are cases when the admission unit is not separated from the other imprisonment units and in some of the PCIs, this unit consists of only one room for accommodation, usually as part of the semi-open and/or open unit of the imprisonment part of the prison. The NPM believes that these solutions do not fully comply with the Law on execution of the sanctions and the House order for the sentenced people where it is clearly defined that the sentenced are accommodated in the admission unit where they remain no longer than 30 days. The legal regulations refer to an obligation for establishment of separate admission unit i.e. unit for interrogation of the people and assessment of the treatment of the convicted person. This unit must not be part of the other units in the PCI and it must not have only one room.

The prison in Strumica does not have a separate admission unit or a separate admission room. The newly admitted people are accommodated in the semi-open unit or the isolation unit and this violates the admission and adaptation process.

In the PCI of open type Struga and the prison in Bitola *the admission unit (admission room) is not separated from the open/semi-open unit of the institution*. The accommodation capacities in the admission unit in the *PCI of open type in Struga* meet the standards for accommodation of people deprived of liberty, regarding the size, heating and daylight. The visiting facility during the visit of NPM did not have electricity and lightning and the metal lockers for the personal belongings were broken.

In *the prison in Bitola* the semi-open unit has an admission room (admission semi-open unit) where the house order for the convicted people was neatly positioned. This room has a separate toilet which according to the inspection and information, is not being used. It had bad odor and the door was not locked. The NPM believes that this toilet should be reconstructed and adapted for unobstructed daily use or locked in order to prevent misuse.

In PCI Prison Tetovo, PCI Prison Prilep, PCI Shtip and PCI Idrizovo in Skopje, *the admission unit is separated from the other units*. The accommodating capacities of the admission unit in the *prison in Tetovo* do not meet the minimal standards for accommodation of people deprived of liberty regarding the size: the rooms are not reconstructed, the area for free movement of the convicted people is very small and narrow, part of the people do not have mattresses and sleep on sponges. The condition of the toilets is seriously worrying and below any standard, especially in the second room of the admission unit.

During the visit of the admission unit of *PCI Shtip* it was concluded that it has only one bedroom, one living room and a separate toilet with a shower. The admission unit has separate exit for daily walks that is being made on a separate walking ground that is also being used by the people who are punished with solitary. At the moment of the visit the NPM has assessed that there is overcrowding of the capacities and the number of accommodated convicted people was beyond the allowed legal framework that is determined in the Law on

execution of sanctions.¹³ The room has heating appliances (radiators) and the floor has laminate meaning that shows that this part of PCI is new and is being maintained. The living room is appropriately equipped with furniture and appliances (TV and DVD) and under video surveillance. The toilet is new, the hygiene is satisfactory and there are two showers which fully meet the needs of the convicted people in this unit. The admission unit does not have a call system/bell that would be used by the convicted people to call the security service for urgent cases.

The admission unit in the *Prison in Prilep* is composed of two separate rooms with 12 beds. When measuring one of the rooms it was concluded that if 6 people are accommodated in the room (pursuant to the number of beds) the room will not meet the minimal standards of 4m² per person. During the inspection it was assessed that the room is not neat, it is not painted and it has a low level of hygiene. Furthermore, the room did not have separate closes where the people could keep their personal belongings. In the part of the admission unit the rights of the convicted people were not posted so that they can be introduced to them during their accommodation in this unit. The admission unit has separate shower with hot water that is being used by the people in the admission unit twice a week. The reconstructed toilet showed several damages and the NPM noticed an improvised blade (made from a broken mirror) and requested its immediate removal.

In *PCI Idrizovo* the admission unit has 6 accommodation rooms and during the inspection of three rooms the NPM concluded that the conditions are unacceptable and that there is overcrowding.¹⁴ The bedrooms in the admission unit have heating appliances (radiators) and big windows with bars which allow sufficient inflow of daylight. However, the rooms looked messy and the walls were dirty and unpainted. They did not have separate closets for the personal belongings of the convicted people (they keep the belongings in cardboard boxes and suitcases under the beds). The toilets and showers in the admission unit are extremely ruined. The windows in the toilets did not have glass and need to be replaced. Smell of urine could be felt. The dining room in the unit was not equipped with furniture and the convicted people eat their meals in their bedrooms. The admission unit did not have posters with the rights of the convicted people.

2. Open and semi-open unit

Most of the institutions that were visited by the NPM during 2012 do not have separated open and semi-open units. The accommodation of the people who are classified to be accommodated in open or semi-open units is made in the same buildings without spatial separation between these two units. Only in PCI Idrizovo – Skopje and PCI Prilep there is a clear physical separation of these two units where the convicted people are suitably accommodated.

¹³ Article 104 pg. 3 of the Law on execution of the sanctions (Official Gazette no. 02/2006).

¹⁴ One of the rooms (31,31m²) had 15 convicted people. On one hand the legal maximum for accommodation of no more than 5 people in a collective room is not obeyed, and on the other, the minimal standard of 4m² per person set up by the KST as the standard size for collective accommodation.

In PCI of open type Struga the semi-open/open unit is not overcrowded and the rooms, with certain exceptions, are appropriately equipped and the hygiene is satisfactory. The toilets and the showers are in extremely bad condition and their urgent reconstruction is needed.

The people who pursuant to the Rulebook for accommodation, classification and transfer of the convicted people in PCI¹⁵ in an institution of semi-open type are classified in semi-open or open unit in the ***prison in Tetovo*** are being accommodated in the same rooms, without clear distinction between the two categories of people. The NPM concluded that there is overcrowding in the semi-open/open unit in the prison in Tetovo, but part of the rooms are appropriately equipped and the hygiene is very satisfactory. There is high level of dampness in the bedrooms. The toilets are partially satisfactory, but the number of showers does not meet the capacity of the institution. There is low level of drainage and the location of the showers is inappropriate.

PCI Shtip and the Prison in Strumica have the similar conditions – the rooms in the semi-open/open units are overcrowded. The legal maximum for accommodation (5 people deprived of liberty in one collective room) is not being obeyed, as well as the standard of KST for minimum 4m² per person. The Prison in Strumica has very low level of hygiene in the accommodation rooms and most of the rooms are in bad condition, have dirty and unpainted walls. The NPM concluded that in PCI Shtip all the rooms are appropriately equipped (table, closets, etc.) and each convicted person had personal bed with mattress. The inflow of daylight and the room temperature were satisfactory. Both PCIs had increased level of dampness and mold on the walls. The toilets, although partially reconstructed, were not in function and had a very low level of hygiene. Not all showers in PCI Shtip were working and the number of existing showers does not comply with the capacities of the unit.

Positive example can be seen in PCI Prison in Bitola and the prison in Prilep. In the ***prison in Bitola*** the inspection in the semi-open unit showed that the international recommendations and the home standards are being obeyed. The rooms have a satisfactory level of hygiene; have tables beside the beds, chairs, metal lockers for the personal belongings. Heating appliances were also installed. The toilet in the semi-open unit is fully reconstructed several years ago and was in quite satisfactory and usable condition. The hygiene was on a satisfactory level. However, during the visit of the NPM people who should be in the open units were accommodated in the semi-open units.

During the conversation with some of the people the NPM received information that the open unit in the prison in Bitola was shut down several days before the visit and that is why there is no clear separation between the convicted people who should have different treatment.¹⁶ In the ***prison in Prilep*** there is a clear physical separation of the semi-open and open unit. During the inspection of the rooms in the semi-open unit it was noticed that the conditions are good and meet the international standards regarding the size. All the rooms have 5 people thus obeying the legal regulation stipulated in the Law on execution of the sanctions.¹⁷ In the rooms there are new beds and mattresses, separate closets for the personal belongings, as well

¹⁵ No. 01-4692/1 dated 06.12.2011 (Official Gazette of the Republic of Macedonia no. 173/2011).

¹⁶ The response of the prison management informed the NPM that there are 10 convicted people are transferred to the semi-open unit due to technical reasons (need for thriftily working of the prison due to lack of conditions in the separate building of the open unit and heating in the winter months).

¹⁷ Article 104 paragraph 3 of the Law on execution of the sanctions: "The accommodation of the convicted people in mutual rooms must not go beyond 5 people in one room".

as table with chairs which can be used by the convicted people. The facilities have sufficient inflow of daylight and big windows as well as heating appliances (radiators). The semi-open unit has a separate toilet and there was a schedule for the people in charge for maintenance of the hygiene in the unit. The toilet, although new and reconstructed, showed large amount of damp on the ceiling and the hygiene was partially satisfactory.

The NPM points the rooms in the open unit in the prison in Prilep as extremely positive example – they meet the international recommendations and meet the stipulated standards. The beds and closets for the personal belongings of the convicted people are new. The hygiene is at satisfactory level. The convicted people decorate the facilities according to the personal will. The rooms are wide with sufficient inflow of daylight and ventilation, as well as heating appliances. The inspection of the toilets showed that they are clean, well maintained and without bigger damages.

During the visit of the semi-open unit in *PCI Idrizovo in Skopje* the NPM stated that regarding the accommodation in the facilities in this unit the legal regulations¹⁸ are not always obeyed. To be more precise the NPM stated that the minimal standards of 4m² per convicted person (recommendation of the KST) are not fulfilled. Furthermore, the NPM concluded that the manner of accommodation in the semi-open unit leads to overcrowding of the capacities. The evident conclusion and consequence of the overcrowded capacities could be seen in the low level of hygiene and the insufficient degree of maintenance of the facilities and the inventory in the unit. Although partially reconstructed several years ago, this unit in the moment of the visit was significantly urinated. The heating in this unit is made through stoves and wood. Each convicted person had its own bed. The NPM was concerned regarding the bad condition of the toilet where strong smell was felt due to the fact that during the reconstruction the installation of the toilet was not made appropriately, as well as due to the low degree of hygiene. The NPM also concluded that only one shower was working in the bathroom, while the other three were not in use. A large amount of dampness and mold was noticed on the ceiling.

The NPM finds the accommodation in the open unit in PCI Idrizovo in Skopje as mostly degrading and inhuman (excluding the “carving unit”). There are several criteria for the determined conditions: not each convicted person had its own bed, mattresses and/or sheets, the facilities did not meet the minimal standards regarding the size, manner of accommodation, hygiene, heating etc., and there is large stigmatization and segregation of certain vulnerable groups (ex. narcotic abusers). The NPM was very concerned with the conditions of the material terms in the open unit. The people cannot fulfill their rights guaranteed by Law, different home and interior acts, as well as the stigmatization and segregation of certain vulnerable groups which is made by the majority of convicted people in this unit.

The most alarming situation could be seen in two of the biggest accommodation facilities which are part of the open unit in PCI Idrizovo in Skopje where 14 i.e. 16 convicted people were accommodated during the visit of the NPM. The NPM concluded that there is overcrowding in these two facilities, the floor in the rooms is actually concrete envelope (no isolation and is not covered with other materials), the facilities have not been painted for a very long time, the windows are broken or covered and this prevents the inflow of daylight

¹⁸ supra 17

and the regular ventilation, there are not appropriate heating appliances and there is a very low degree of hygiene and an increased presence of insects in the room, in the sheets and the mattresses. This directly endangers the health of the convicted people. The NPM immediately informed the Direction for execution of sanctions for the condition in these two facilities and issued a recommendation for their immediate shut down and reconstruction.

On 03.12.2012, upon the extraordinary professional inspection, the Director of the Direction for execution of the sanctions issued an order for their shut down and preparation of a plan for their immediate reconstruction and sanctions.

3. Closed unit

During the visits of the NPM in 2012 it was noticed that the material conditions in the closed units are worse compared to the accommodation in the semi-open/open units excluding PCI Idrizivo I Skopje where the conditions in the other units cause the same or bigger concern.

During the inspection of the closed unit that is part of the *Prison in Prilep* it was stated that it is composed of two rooms and one TV hall. The walls were freshly painted, the rooms were clean and heating bodies were installed. The same rooms have big windows with bars and there is sufficient inflow of daylight. The NPM noted that the floor is not covered and is made of concrete plate without isolation that would help to protect the facilities in cold weather conditions. The closed unit has a small walking area used by the people accommodated in this unit.

The closed unit in the *prison in Bitola* is composed of two separate rooms – accommodation admission unit and closed unit. The Ombudsman – NPM concluded that these facilities are under continuous video surveillance and that provides direct insight in the facilities, including the beds where the people sleep. In the admission closed unit (facility) the temperature was in the acceptable limits whereas the humidity was increased. The call system is out of order so, the people contact the security service by giving signals in front of the cameras in the bedroom. The house order is appropriately positioned and the convicted people can continuously be introduced and informed for their rights, obligations and benefits. The toilet that is part of this unit was in function, it had a separate shower with hot water. However, there are very regular floods due to the problems with the drainage (the team of NPM witnessed such event) and because the floor tiles in the toilet are partially damaged.

During the visit of the closed unit (facility) in the *prison Bitola*, the Ombudsman – NPM concluded that the bedroom had a total of 10 beds (bunk beds), but not all of them were in use (some of them did not have mattresses). After the inspection, the NPM concluded that pursuant the legal regulations this facility cannot accommodate more than 5 people and if there are 5 convicted people at the same time each of them will get a space of 6m² which fulfills the criteria of at least 4 m² pursuant the international standards. In this facility there were metal closets for the personal belongings, the people could watch television and the house order for the convicted people was appropriately positioned. The furniture and the mattresses in this room, as well as in the admission closed unit, are old and the beds are made of metal. The NPM also encountered a satisfactory level of hygiene in this room. This unit has separate toilet with a bath.

The closed unit in *PCI Shtip* is composed of one ground level unit and three wings and the total accommodation capacity is 32 rooms out of which 24 with capacity for two people and 8 with accommodation capacity for 4 people. The level ground of the closed unit is used for separation of the people who are at risk, as well as for the disciplinary sanction – solitary. The rooms were messy, the walls were dirty and unpainted, and they had built-in toilets that seemed very messy and damaged. In the level ground unit the most of the rooms had two beds and during the inspection of the size it was stated that they have area of 6m² and this does not comply to the international standards of 4m² per person deprived of liberty. The temperature in these rooms was very satisfactory whereas the humidity was beyond the allowed limit for relative humidity in the accommodation area. The accommodation rooms had call system which when checked by the NPM was in good function.

The NPM is concerned about the limited freedom of movement of the people accommodated in the unit that is located on the ground level that is part of the closed unit in PCI Shtip. The NPM, in those cases when it comes to people who are not sanctioned with disciplinary penalty – solitary, believes that they are in unequal position compared to the other people who are accommodated in the remaining three wings of the closed unit. This position can be a base for their discrimination due to the unequal behavior because these people are exposed to unequal and degrading treatment compared to other people in similar position. The rooms in the three wings of the closed unit (wing 1, wing 2 and wing 3) are below the minimal standards for size, there is insufficient inflow of air and the level of dampness is increased. They have heating appliances and each convicted person has its own bed. The hygiene is not at the satisfactory level in most of the facilities.

The conditions in the second wing of the closed unit in PCI Shtip are assessed as the most critical and inappropriate because the accommodation of the convicted people is in unpainted facilities with very low level of hygiene and big amount of dampness on the walls. This wing was not aerated and in order to have better airflow the doors of the rooms are removed. The NPM believes that the increased dampness in the rooms is a result of the installment of the windows and that the windows are small and sealed without possibilities to be open. The measurement of the rooms showed that the size is 6m² and this is below the standard of 4m² per person accommodated in collective room. The closed unit has rooms with 4 beds which were stated that are in better condition but the measurements showed that these facilities have a size of 10,30m² and they do not meet the stipulated international standards of 4m² per person in a collective room.

In the closed unit the level of hygiene in the toilets and showers is different, depending on the wing. The people accommodated in the three wings of the closed unit besides the separate toilets in the bedroom have also a joint toilet. During the visit the NPM concluded that part of the toilets have very unpleasant odor of urine and some of the bathrooms do not have hot water. One of the toilets did not have artificial light.

In the three wings there are living rooms equipped with tables, chairs and beds which the convicted people use for seating and there is a TV as well as gym that is equipped with new and functional exercise gadgets that meet the security standards. The NPM believes that the exercises in the gym must not be done without the presence of a professional or at least a convicted person that has the appropriate experience.

The house orders are posted in an appropriate place and there is also a box for requests for medical assistance. The closed unit does not have a separate dining room and the convicted people eat their meals either in the accommodation rooms or the living rooms.

The NPM concluded that the closed unit of PCI Idrizovo in Skopje has metal boxes placed by the Ombudsman (for submission of complaints) and the management (for reporting corruption and objections of the convicted people). It was also stated that there are no boxes in the main hall or the wings for submission of requests for medical assistance. In that line, it was concluded that the obligations of Article 42 of the Houser orders for the convicted people are not obeyed.

During the inspection of this building the NPM visited the wings no. 5, 8 and 9 as well as the new ground part of the closed unit. During the inspection in one of the rooms in the wing no. 5 the NPM noticed overcrowding. Fifteen people were accommodated in one of the bedrooms and each person gets an area of 3m². The NPM believes that this type of accommodation is not in compliance with the Law on execution of the sanctions¹⁹ or with the stipulated international minimal standards. There was a separate bed for every convicted person and the dampness and temperature in this room were within the frames of the stipulated standards. The NPM concluded that all of the sleeping rooms have sufficient and direct inflow of daylight and the artificial lighting is satisfactory. However, in one of the rooms the ceiling was leaking although this wing was reconstructed several years ago. The floor was reconstructed and laminated, the metal beds had old mattresses and due to the lack of lockers, the convicted people are forced to keep their belongings under the beds. The institution does not always fulfill the obligation stipulated in Article 107 paragraph 1 of the Law on execution of the sanctions and in most of the cases the sheets are in personal belonging of the convicted people. According to their statements, because of the lack of sheets in the prison, the inmates need to borrow sheets from each other. This wing does not have separate dining room and the convicted people eat their meals in their bedrooms and use smaller tables and chairs. The main hall of this wing has a phone booth but at the time of the visit of NPM it was not working.

During the inspection of the toilets and bathrooms the NPM concluded that although they were fully reconstructed several years ago, they are totally or partially damaged and unusable. Out of four showers only one works and there are 4 toilets. None of the showers or toilets is covered (closed) and this violates the privacy of the convicted people. They are not maintained. The NPM points to the recommendation 19.3 of the European prison rules and pursuant this recommendation the inmates need to have access to the toilets which should be working and the prisoners' intimacy should be obeyed.

During the inspection of wing 8 the NPM noticed a big difference in the manner of accommodation (the number of people accommodated in the bedrooms). Two of the facilities in this unit had two convicted people and during the inspection the NPM assessed that in this manner they get 5,5m² and that leaves them sufficient space to put objects that are in their personal belonging (LCD televisions, refrigerators, freezers). The dampness and the temperature in the room were within the stipulated level. The NPM inspected the other rooms in this wing and assessed that they all have 6 accommodated people i.e. each person gets 2,90m² and that is below the standards stipulated by KST. The NPM believes that most of the

¹⁹ supra

convicted people are in very unfavorable position compared to the other people accommodated in these two rooms because the former ones have certain benefits (personal belongings in their rooms) and the latter do not have these benefits due to the lack of physical space. The NPM concluded that in the rooms for collective accommodation in the wing no. 8 there is overcrowding, the hygiene is on very low level and the rooms are equipped with old beds. The rooms are not painted²⁰, some of them were not aerated and in most of them the convicted people kept their belongings under the beds. The sheets and the pillows are not provided from the prison. All the rooms have installed heating appliances, most of them had a television and according to what the NPM team saw and the interviews that were conducted, there is no selection according to the nationality of the people.

The inspection of the wing no. 9 led to conclusion that this unit contains the people who have longer prison convictions and that the internal regulations and international standards regarding the accommodation of the convicted people are obeyed. The conditions for accommodation in this unit are at much higher level compared to the other wings in the prison, bearing in mind the category of prisoners. Also, the conditions are equal and this enables more relaxed relations between the prisoners in this wing. This unit is reconstructed; the main hall has furniture for daily stay and inventory as well as new metal lockers for the personal belongings of the prisoners. The NPM concluded that there is no selection regarding the accommodation based on the nationality of the people. The dampness of the air and the temperature in the rooms of this wing were within the stipulated frames. The NPM concluded that the people accommodated here provide their own sheets and there was a problem regarding the low pressure of water which sometimes leads to lack of drinking water. The hygiene was at satisfactory level, the people are enabled to put personal belongings in the living space. The bedrooms have toilets which are separated from the room with a wall, and the right to shower is being accomplished in the joint bathroom located on the ground level of the building.

In the new ground wing of the closed units there are people who due to security or other reasons are separated from the remaining part of the prisoners who are classified in the closed treatment. The accommodation in these rooms is collective with 2-4 people per room. The Ombudsman – NPM stated that there is partial overcrowding in this unit: the rooms with 4 people had area of 13,31m² and that does not fulfill the stipulated international standards of 4m² per person whereas the rooms with two people had a size of 8,95m² and that fulfills the minimal standards of 4m² per person. The temperature and the dampness of the air were within the acceptable limits. The inspection led to conclusion that these people have significantly less space and freedom of movement within the wing where they are accommodated compared to the remaining people classified to serve in closed units. These people are enabled to decorate their rooms with objects that are in their personal belonging (televisions, refrigerators, stoves) and the sheets which they use are also their personal belonging. In this unit there is no separate living room, so the people are forced to spend most of the day in their rooms and the joint hall that is narrow and does not provide conditions for daily accommodation. These people have 2 hours stay in the open (the right is fulfilled according to the law). However, they spend the remaining 22 hours in a very small area and thus, their liberty of movement is significantly decreased. The hygiene in the new ground wing is satisfactory, and each bedroom has separate toilet that is physically separated from the accommodating capacities of the room. These people fulfill their right to shower

²⁰ The convicted people in this wing complained that they should provide funds for paint in order for the room to be painted and not every one of them could contribute.

(personal hygiene) as the other inmates in the closed unit – in the bathroom located on the ground floor of the building. This unit does not have a direct surveillance from the security sector but the surveillance is performed by the duty office that is nearby. The alarm system is ruined and does not function.

The NPM inspected the bathroom in the closed unit in PCI Idrizovo in Skopje and stated that it has 12 showers and it was obvious that the damaged elements (faucets) are regularly replaced.²¹ However, there are some damages in the bathroom – the floors and walls are not painted and certain parts of the ceiling were significantly damaged. The water is heated through the central heating. The NPM believes that the bathroom should be regularly maintained, so that bigger damages and future repairs could be prevented. The NPM believes that the right to privacy is obeyed because the shower units are physically separated.

4. Other units

PCI Idrizovo in Skopje has a separate unit for women from the whole territory of the Republic of Macedonia who are sentenced to prison. This unit is divided into open and closed unit which are physically separated. The closed unit has eleven bedrooms but there is no separate living room. The hall of the closed unit has high closets for the personal belongings of the prisoners. The NPM assessed that the room which is used for the disciplinary penalty – solitary has a size that is in accordance with the internal and international standards. However, the temperature is much lower than the stipulated and acceptable standards. The same room did not have a heating appliance or a call system, but it has a working toilet. The NPM assessed that it has a direct inflow of daylight, but there is no table and chair for consumption of the meals.

The bedrooms in the closed unit have 3-5 female prisoners and NPM concluded that each prisoner had its own bed, the rooms had table, chairs and television and they were decorated by the inmates. The area of the rooms meets the internal and international standards regarding the size for collective accommodation of people deprived of liberty and during the visit the NPM assessed that the temperature and the dampness of the toilet were within the limits. During the inspection of the shared toilets there was increased dampness, they were partially clean and required regular maintenance because there were visible damages on the floor and showers.

Beside the closed unit, the isolation room and the admission room²² that are part of the female unit of the penitentiary-correctional institution there is an open unit composed of four accommodation rooms, toilet and a little kitchen. The inspection showed that the facilities meet the minimal required international standards regarding size and the temperature and dampness were within the limits. The rooms had a direct inflow of daylight, but the walls were damaged and unpainted and dampness could be noted. There were heating appliances (radiators). The shower in the open unit is improvised, there is a wooden base and is not separated from the remaining part of the toilet.

²¹ In the time of the visit, having in mind that it was announced, it could be noticed that 5 old and damaged faucets were appropriately replaced thus enabling the convicted people to use the showers.

²² The measurement of the admission room showed that it has a size of 21,9m² and this does not comply with the international standards stipulated by the European Committee for prevention of torture that requires 4m² per person for collective accommodation.

The *Unit for elderly people* in PCI Idrizovo in Skopje is composed of six accommodation rooms. The inspection showed rooms with 13 and 14 beds. This situation leads to overcrowding and does not provide the basic minimal standards for accommodation of the people deprived of liberty and does not obey the provisions of the Law on execution of the sanctions. Each prisoner had its own bed.

The hygiene in the accommodation rooms in the unit for elderly people is satisfactory but not all the rooms have separate closets for the personal belonging of the inmates. The facilities were appropriately equipped with tables, and some of them had televisions. The windows are barred and provide sufficient inflow of daylight. This unit does not have a separate living room, but the people in this unit do not have a restricted movement and stay in open in the walking area that is part of this unit. The inspection of the toilets and bathroom showed that although they were fully reconstructed several years ago, they are partially damaged. Out of three showers, only one is working and the toilet is not physically separated from the showers. The toilets are also not separated with a door and this may violate the privacy of the inmates. The hygiene is on satisfactory level and the toilets are regularly maintained.

PCI Idrizovo – Skopje has a *school unit* that has eight accommodation units mostly for sentenced people that have not formed primary education and visit classes until in prison. The inspection in the accommodation capacities showed that although this unit was fully reconstructed three years ago it is in a very bad and ruined condition. The condition of the unit is a result of the use and maintenance of the facilities and the toilets, as well as the overcrowding. All these factors directly influence the material conditions.

Most of the facilities in the school units show overcrowding and do not fulfill the basic minimal standards for accommodation of the people deprived of liberty. The NPM found high degree of dampness which is believed to be result of the manner of construction and due to the overcrowding in the capacities. The school unit does not have a separate unit that would be used as living room, so the people are obliged to spend most of the days in their rooms and the shared hall that does not provide appropriate conditions for living room. The facilities have had heating appliances, but the heating is performed through stoves that use wood. The ventilation is natural and during the visit the facility was not aerated. The facilities do not have a call system (alarm bells), so a question is raised regarding the manner in which the inmates will call or alarm the security sector bearing in mind that this sector does not perform direct surveillance over the unit. The surveillance is made through the duty office of the closed unit.

The toilets and showers in the school unit, although fully reconstructed several years ago, were in very bad and ruined condition. The toilet looks messy and damaged. The toilets did not have cisterns, the lavatories were completely damaged and out of four showers only one was working.

5. Solitary and confinement

The conditions and the accommodation in the solitary rooms in most of the PCIs visited by the Ombudsman – NPM in 2012 are assessed as degrading and inhuman.

During the inspection of the solitary room in the PCI of open type in Struga the NPM assessed that the facility is significantly bad compared to the remaining part of the accommodation capacities. The NPM believes that the conditions in the solitary are inappropriate and there is dampness, no heating appliances, there is no call system/alarm, and the toilet is in very bad condition. The NPM expressed concern for the manner in which the direct and the indirect surveillance of the people accommodated in this room. Namely, there is a small opening on the metal door and the people from the security sector have a direct view of the toilet in the room that violates the personal integrity and intimacy of the people.

Regarding the part of the isolation in the *prison Strumica* there are three rooms for which the NPM stated that there is a significant lack of hygiene and the sheets are messy and unclean. These rooms show a great amount of dampness and the temperature in one of the rooms was very low (12°C). The heating appliances are out of order and the toilet functions only in one of the rooms. It should be taken into consideration that the people who are accommodated in these rooms eat their meals in the rooms which may cause risk for possible diseases and infections.

The people who are serving disciplinary penalty – solitary in the *prison in Tetovo* are placed in the accommodation unit because this prison does not have separate rooms for this disciplinary measure.²³ In the prison in Prilep there are four rooms in the detention unit which are used for the disciplinary penalty – solitary. During the inspection of one of the solitaires the NPM concluded that the temperature and dampness in the air were within the limits, and the solitary used for individual execution of the penalty has a size of 4,7m2 and does not fulfill the minimal standards for individual accommodation of the people deprived of liberty (minimal 6m2). The NPM concluded that the solitary is painted, the hygiene is good and there is a call system which is in order. The person that was accommodated in the solitary was allowed to take the sheets from their room.

In the *prison in Bitola*, similarly to the prison in Prilep, two of the rooms in the detention unit are used for execution of the disciplinary penalty – solitary. The NPM assessed that the minimal standards and recommendations regarding the size of the room for individual accommodation of at least 6m2 are not obeyed. The people do not have direct access to daylight, there is an increased dampness, instead of mattress there is an improvised sponge and the rooms do not have heating appliances. The toilet is not fully separated from the room and the call system (alarm bell) is damaged. The NPM stated that certain objects can be misused or lead to degrading and inhuman treatment.²⁴ Acting in a preventive manner the NPM requested the management of the prison to remove the objects from the solitary which represent risks and which may easily be misused in line of degrading or inhuman treatment. If

²³ See more on the solitary rooms in the prison in Tetovo in the description of the conditions in the admission unit in the prison in Tetovo.

²⁴ One of the solitaires had small metal chain with a locker over the bed which according to the explanation of the security service remained from the time when the room had two bunk beds and the chain and locker were used to attach the upper bed to the wall. The other risk noted by the NPM was sheets or part of clothes tied in knots and attached to the metal rods of the window over the door.

there is use of physical immobilization of a certain person, it must be made with regular use of allowed objects for use of force, according to the established protocols and rules and made by a competent person.

The closed unit of PCI Idrizovo has 12 rooms that are used for disciplinary penalty – solitary. All the rooms are made for individual accommodation (have one bed) and each of the rooms has separate toilet and faucet. The inspection of the NPM assessed that they meet the standards regarding the size (area of the room), but the low level of their maintenance, the lack of ventilation and the unsatisfactory hygiene were evident. One of the solitaires where a person was accommodated had a toilet that was out of order and a strong urine odor could be felt, as well as presence of insects. The mattresses in the solitaires were composed of three pieces and were very old, and the sheets were messy. The rooms did not have a direct inflow of daylight, and the artificial lightning came from the outside through the opening with metal bars placed towards the inside hall.

The NPM assessed that the solitaires in PCI Idrizovo do not have appropriate heating appliances and that they are located in the main hall of this unit. The temperature of the solitaires was below the standards whereas the dampness of the air was within the acceptable limits. The rooms do not have call systems (electric bells) and this imposes the question how the people alarm the duty services (in case of need for medical assistance).

Furthermore, several of the rooms have installed video camera and are under permanent video surveillance (in the time when there is a person inside). The NPM was concerned regarding the video surveillance in these rooms because besides being used for people who are temporarily separated from the other due to the need of reinforced surveillance (risk of inflicting self injuries), they are also used for people who serve penalty – solitary. At the same time the PCI Idrizovo has not adopted a bylaw that will regulate the manner of execution of the video surveillance which is contrary to the obligations that arise from the Law on protection of personal data.

6. Detention units

During 2012 the NPM visited several detention units which are part of the penitentiary-correctional institutions of semi-open kind as it follows: prison Tetovo, prison Prilep and prison Bitola. The Ombudsman – NPM concluded that the international and home standards regarding the material conditions are not obeyed and implemented in praxis and identified several disadvantages and irregularities.

The detention units in the prison Tetovo and prison Prilep are overcrowded and not all rooms have the minimal standards and recommendations regarding the area of the room of 4m² per person. The people do not have direct access to natural daylight and the toilet is not physically separated from the accommodation capacity of the detention room. There is increase in the dampness in the prison Tetovo and not all the rooms have call system (alarm bells). In the prison Prilep the walls are not painted; however, there were heating appliances and the house orders were suitably positioned.

During the visit of the unit for execution of the detention in the prison Bitola the NPM assessed that the detention units do not meet the minimal standards regarding the size,

daylight, heating and ventilation. Although these rooms fulfill the interior standards of 9m³ (regulated by the Law on execution of sanctions) most of the rooms in the unit provide 2m² and 3m² per person and that is below the stipulated international minimal standards. This area includes the toilet (Turkish closet and lavatory and faucet). The hygiene is not satisfactory and the NPM believes that this is a result of the overcrowding and the fact that the detainees spend most of the day (22 hours) in their rooms and they also eat their meals there.

The NPM concluded that the detention rooms in the prison Bitola there are no heating appliances and that these appliances can be found only in the hall of the detention unit. The temperature in the rooms was not within the stipulated limits and the humidity in the air was very high.²⁵ Each detainee had its own bed, but the NPM concluded that parts of the mattresses are old and ripped and some of the detainees had old improvised sponges instead of mattresses.

The NPM welcomes the installment of wooden closets in the main hall in the detention unit of the prison Bitola in front of the entrance in any room and believes that keeping the personal belongings (things for personal hygiene, drugs and shoes) outside the accommodation rooms increases the protection of the people who are accommodated in the detention unit and acts preventively in line with the decrease of the self-inflicted injuries. In the hall there was a poster with the house orders for the execution of the detention and the NPM concluded that the detainees can see it, but they do not have a continuous access to it. The NPM inspected the bathroom which had two showers used by the detainees. It was stated that the showers work and the detainees are enabled to take a shower once a week (every Saturday).

7. Other rooms

During the visits of the penitentiary-correctional institutions the NPM paid special attention to the infirmaries, kitchens and dining rooms, the visiting rooms, the search rooms, the places for outside walks as well as other rooms where the people detained from liberty move and abide.

Rooms for search of people

The NPM stated that most of the institutions do not have separate rooms (or separate facilities) intended exclusively for search of a detainee or sentenced person. Thus, the search is usually performed in improvised facilities. In the prison Prilep the body search of the people deprived of liberty is made in the visiting room and the room intended for conversation with the attorney. This room is not appropriately equipped and the equipment of the security service is kept there. The NPM in the concrete case has concluded that the room does not meet the basic preconditions and that it is necessary to have a separate search room, separate room for the equipment of the security service and the visiting room should be appropriately equipped with additional furniture.

²⁵ During the visit the humidity was around 60% and that is on the very limit of the standard of 30-60%.

In some of the PCIs the search of people is made in the halls or the duty offices located on the entrances of the institutions. In that way, the people who are being searched are exposed to direct views of the employees and other people deprived of liberty. Therefore, in some situations there can be violation of the dignity of the person deprived of the liberty and humiliating behavior with this category of people.

Infirmery / room for medical examination

The material conditions for execution of the doctor's checkups and infirmery interventions are different and depend on the size and capacity of the institution. Appropriately, the PCI Shtip and PCI Idrizovo have separate infirmaries, dentist's dispensary, and in the case of PCI Idrizovo there is a separate stationary. In the prison in Bitola and Prilep there are separate infirmaries whereas in PCI Struga there is an office for medical checkup. In the prison in Tetovo the office for medical assistance has several purposes and is being used for search of people and conversation with attorneys.

Only the *prison in Strumica* has no separate office for medical assistance and checkups and these are made in the duty office. The NPM has concluded that the office is not appropriate for medical assistance because it has big glass windows and the people who are inside can be exposed to direct views and their dignity and personal integrity can be violated. The medical charts are kept in this office, as well as the prescriptions for the detainees. This violates the principle of confidentiality between the patient and the doctor. The access to the medical files should be in possession of the doctor or another medical person that is engaged in the prison in order to establish a confidential relation between the doctor and the patient and in line with the protection of the rights of the patient.

The NPM has stated that the office for medical examinations in *PCI Struga* is appropriately equipped but does not have additional medical supplies and appliances. The drugs are kept in separate pharmacy in the office of the nurse, as well as the charts of the convicted people and this provides confidentiality of the data pursuant the international standards and praxis.^{26 27} The situation is similar with the checkups office in the *prison Tetovo*, the only difference being that the latter does not have infirmery bed.

In the *prison Prilep* the NPM's inspection proved that the infirmery is clean, dry and well maintained. The infirmery is small, has basic instruments, but it does not have suitable closets (or safe) for the medical charts. In that way, the confidentiality is questioned regarding the data because the circle of people who have access to the chart is very big. The infirmery has blood pressure apparatus, blood glucose meter, stethoscope, and the access to the drugs is enabled only to the doctor because they are kept in a separate closet.

The healthcare in the *prison Bitola* is made in two rooms: the infirmery and the office of the nurse. In this prison the minimal standards are obeyed. The infirmery room is well equipped; it has a bed and additional medical instruments for checkups of the convicted people and the detainees. It is registered and it has license to work as infirmery. The medical charts are kept in the nurse's office in a separate metal closet. In that way, the protection of the confidentiality is provided. The office of the nurse has a pharmacy where the drugs are kept under lock thus providing protection from possible misuse.

²⁶Recommendation No R (98) 7 concerning the ethical and organizational aspects of health care in prison – Council of Europe – Committee of ministers adopted on 8 April 1998 at the 627 meeting of the Deputies.

²⁷ Item 42.3 of the European prison rules, adopted by the Committee of Ministers of the Council of Europe on 11.01.2006

The infirmary in **PCI Shtip** has two infirmaries and one intervention room, as well as dentist's office. The checkup room in PCI Shtip is appropriately equipped; it has a bed, ECG monitor, as well as additional medical instruments for the convicted people. The medical charts are kept in the infirmary, but during the visit of the NPM they were outside the suitable closet. The NPM recommended that they should be continuously locked in order to provide bigger protection of the confidentiality of the data. On the other hand, the NPM concluded that the drugs are kept in a separate closet that provides bigger protection of possible misuse. The infirmary has a blood pressure meter and the dentist's office has modern equipment.

The NPM visited the infirmary of the **PCI Idrizovo** that is in the area of the closed unit. The medical charts are kept in a metal closet in the office of the head of the sector for health care. Only the doctor's service has access to these. In the medical part there is a therapy room where the drugs are kept, as well as dentist's office that is fully equipped to give dentist's services. The infirmary has license for work. The infirmary unit has an office for methadone therapy. The methadone center works with a professional team that is responsible for the therapy of 128 users.

During the visit of the stationary in **PCI Idrizovo** the NPM found a very low level of hygiene and ruined rooms that accommodated users of the methadone therapy. The stationary is an old building that is partially ruined, the outside part is damp, and the windows are very old. On the day of the visit the stationary accommodated 130 people in 30 rooms. There was one person that was placed in the hall. The rooms showed large amount of dampness and the convicted people stated that during the winter there is no heating. Most of the rooms were unpainted and the windows are very small and do not allow sufficient inflow of daylight. The rooms have installed separate toilets which were in a very bad position, they were dirty and messy, the hygiene in the showers was at very low level, and there was an unpleasant smell of urine and significant damages on the tiles and lavatories which are used by the convicted people.

The NPM believes that the accommodation in conditions such as the ones in the stationary in PCI Idrizovo in Skopje are opposite the requirements of the European Prison Rules which state: *"the conditions for accommodation of the prisoners especially the bedrooms need to comply with the human dignity as much as possible and to fulfill the requirements for health and hygiene, taking into account the climate conditions, the floor surface, the amount of air, the lightning, heating and ventilation"*.

Although the stationary is foreseen for hospitalization of patients, the NPM concluded that most of the people who were accommodated there are users of methadone therapy. Respectively, the people who are accommodated are not ill people that need additional medical care, but on the contrary, they are separated and accommodated in a separate building due to their condition – users of narcotics.

Kitchen and dining room

The penitentiary-correction institutions were stated that they have a satisfactory level of hygiene in the bigger part of the kitchens. The kitchens had the menu approved by the doctor and head of the prison clearly pinpointed. However, during the visit of the prison Prilep, the prison Strumica and PCI Struga there was a lack of updated menus and in the prison Strumica there was no signature of the head of the prison. In part of the institutions the food control

book is not updated regularly and this points out to the conclusion that the control of the meals is not executed on daily basis (PCI Shtip, Prison Strumica, etc.).

In most of the PCIs the chairs in the dining rooms are not fixed to the floor as well as the tables. This presents a possible risk for the safety of the convicted people and the employees. During the inspection the NPM concluded that the dining rooms do not have sufficient number of chairs and the lunch and dinner are consumed in two shifts.

A positive example can be seen in the kitchen and dining room in PCI Shtip. This kitchen is equipped with modern furniture (pursuant to the HACCP standards), the necessary kitchen utensils and refrigerators for the food. During the visit it was stated that the kitchen is clean and neat and a two week menu was pinpointed. The dining room has 88 chairs that are fixed to the tables and it also has video surveillance. The dining room in Strumica also has chairs which are fixed to the tables.

Especially worrying is the situation regarding the consumption of the meals in the detention units in the PCIs visited in 2012, as well as the delivery and consumption of meals in PCI Idrizovo. The NPM finds the delivery and consumption very degrading because the detainees do not have a separate dining room, but they consume their meals in the small detention rooms and use a very small, metal table. During the visit of PCI Idrizovo the NPM concluded that in most of the units there is no separate dining room, so most of the convicted people eat their meals in the rooms or the improvised halls. The convicted people do not receive utensils from the prison and they use their personal utensils or consume the food in another manner. In that line, the NPM requested the management to urgently undertake measures in order to improve the accommodation conditions in PCI Idrizovo by improving the serving, keeping and consumption of the meals.

Workshops

Upon the visits of all the penitentiary-correctional institutions during the past two years, the NPM concluded that the situation with the workshops and all the other facilities for economic activities is worrying. Due to the difficult financial situations, a great deal of the economic-production capacities in the institutions are closed or ruined and are not being used. This condition is obvious in the biggest penitentiary-correctional institution in the Republic of Macedonia **PCI Idrizovo** in Skopje; due to several factors, such as the unsatisfactory material preconditions, the insufficient engagement and interest among the prisoners, as well as the plans for reconstruction of this institution, most of the existing economic capacities are not used.²⁸ In **PCI Shtip** the number of economic units (economy and workshop) is very small and does not meet the needs pursuant the capacity of the unit. The NPM believes that this institution does not have the necessary preconditions for fulfillment of the right to work of the prisoners and this undoubtedly influences the process of their re-socialization. During the visit, the NPM concluded that the workshop does not have sufficient protective equipment for the prisoners.

A positive example is the efforts of the management of the prison Bitola for maintenance of the existing economic units. The NPM inspected the carpenter's workshop and the mushroom

²⁸ The NPM concluded that the biggest part of the objects that are part of the economic unit "Preporod" is not functioning, and part of it is ruined. According to the current plans and the reconstruction project of the PCI and ECI, this part will be demolished.

farm and concluded that the workshop is well equipped with working material and machines, but it has not been provided with protective equipment for a longer period. The mushroom farm is a good example for a small production unit and successful training of the prisoners during the execution of their work engagement.

The NPM concluded that the obligations stipulated in Article 121 and 122 of the Law on execution of the sanctions are not fully implemented. Namely, the rooms and workshop where the prisoners work are not suitably equipped and part of the prisoners do not have the minimum technical conditions for protection at work pursuant to the general regulations.

Facilities for sport and recreation

Most of the penitentiary-correctional institutions have facilities for sport and recreation, such as gym and/or table-tennis. The gyms are usually equipped with improvised gym equipment and they present additional risk for the safety of the prisoners that use them. The NPM issued recommendations for some of the institutions that the exercises in the gym must not be performed without the presence of a professional or at least a prisoner that has the appropriate experience.

Only PCI Shtip has new and functional gym equipment that meets the protective and security standards. In the prison Strumica, due to the lack of functional facility for sports, the prisoners organize their own activities and the NPM notices existence of improvised gym equipment in the prison yard.

Most of the institutions have libraries which have a very old library repository.

Outside walks area

The bigger part of the outside walks area fulfills the necessary standards for outside walks, pursuant to the existing legal regulations. The NPM concluded that the space (yard) in PCI Struga and the prison Strumica are appropriately and satisfactory arranged with benches and are regularly cleaned. The areas for outside walks partially enable possibilities for sports, but most of them do not have a roofed part that would enable unobstructed walks to the people outside the building in bad weather conditions.

The areas for walks of the detainees, convicted people in closed units and people who serve the disciplinary penalty – solitary, have lower capacities and enable less freedom of movement. The NPM stated that in this part of the PCI (Prison Tetovo) this area enables unobstructed fulfillment of the right to sit in open; however, the bigger part of the institutions have smaller walking areas. Appropriately, the walking area in the prison Strumica for the people who are isolated is small, arranged and has grass, but it does not have covered part in case of bad weather conditions so, its use is restricted. The prison Prilep has a very restricted walking area for the people in the closed unit, whereas the walking area for the detainees has the satisfactory size, but it lacks benches, chairs, etc. In the prison Bitola the walking area for the detainees is very restricted, but the walking area for the convicted people offers bigger freedom of movement and enables performance of different sport activities.

A positive example can be the walking area of the people in the semi-open unit in PCI Shtip because NPM believes that the size and arrangement of this area meets the needs of the prisoners for stay in the open during the day.

In PCI Idrizovo the people who are accommodated in the closed unit fulfill their right to daily walk in the open in the main yard/walking court in the institution, according to a schedule. The area is wide, covered in grass and in the form of playground, thus enabling the prisoners of the closed unit to engage in sport activities. However, the walking area does not have covered part and this disables the prisoners from fulfillment of the right to daily walks in bad weather conditions.

The area for outside walks of the people in the admission and semi-open unit in PCI Idrizovo is very limited and has a small capacity. The walking area of the admission unit does not have benches or chairs, while the walking area in the semi-open unit is more restrictive and limited to a small area compared to the convicted people who serve their sentence in the closed unit.

The female unit in PCI Idrizovo has limited walking area where the prisoners spend their day during the allowed hours for outside walks. The yard is small and arranged, with grass and benches, but it does not have a covered part that would enable its use during bad weather conditions.

B.2 Degree of fulfillment of the right of people deprived of liberty

1. Health care

Not all of the penitentiary-correctional institutions have an employed doctor although the employment of the doctors in the institutions is an obligation pursuant to the Law on execution of the sanctions. Appropriately, the NPM has concluded that PCI Struga, the prison Tetovo and the prison Strumica do not have an employed doctor, but the health care is fulfilled through an agreement for engagement of a general practitioner (permanently employed in the local health institutions) who undertakes the obligation to be present in the prison for a previously determined time during the week in order to enable healthcare to the convicted (and the detainees). The most alarming situation was encountered in the prison Strumica where not even a nurse is employed.

In the PCI the Article 42 paragraph 3 of the House Rules for the convicted people is not being obeyed. Pursuant to this Article, the convicted person applies for medical assistance with a submission of written request in a post-box for this purpose. None of the institutions have separate post box for application except for PCI Shtip where the NPM concluded that there is a post box for medical assistance. The application is made mostly through the Security sector and the NPM finds this to be inappropriate bearing in mind the confidentiality of the data for the health condition, as well the fact that most of the complaints of the convicted people refer to the access to medical assistance and the fact that the convicted people believe that their requests for medical assistance do not reach the doctors.

In several PCIs the NPM gave recommendations to the doctor and/or the nurse for the need of prescription of diets for the convicted people who are ill (mostly diabetes) and referred to

Article 110 paragraph 3 of the Law on execution of the sanctions (the ill convicted people receive food pursuant the type and amount regulated by the doctor).

The NPM was especially concerned with the visit of the prison Strumica because the current arrangement of the health sector did not meet the international standards established by the Council of Europe, as well the recommendations of the World Health Organization. The security service in this prison has a direct access to the charts and this violates the confidentiality between the doctor and the patient. The NPM reminded the management of the prison that the recommendation no. 98 in the part of ethic and organizational aspects of the health care in prison, issued by the Council of Europe²⁹ stipulates confidentiality of the data of the patients who are in prison. The other PCIs have the medical documents and charts in separate closets in the infirmary or the office of the nurse and they are kept in confidential manner. Only the health care service has access to them. Beside the prison Strumica, the prison Prilep was also noted that it does not fulfill this standard, because the medical charts are kept on a shelf in the ambulance room because there is no appropriate closet. In that manner, the confidentiality of the data is questioned, as well as the people who have access to the charts.

The NPM refers to the need of building a relation of confidentiality between the doctor and the patient, and it is especially important that these checkups are made without the presence of officials in uniforms. In several institutions the presence of other people in uniforms was noted during the checkups (this is especially noted in the prison Strumica, PCI Struga and others). This is opposite to the international standards. The NPM reminded the management of the institutions of the obligations of Article 10 paragraph 3 of the House Rules for the convicted people and Article 10 paragraph 2 of the Rulebook for house order for execution of the detention; pursuant to the former, the checkup of the newly arrived convicted and detained people is performed without the presence of other officials.

The NPM found a bigger number of disadvantages and irregularities in the work of the healthcare sector regarding the checkups and the visits of the people who are serving disciplinary penalty – solitary. In the prison Tetovo and PCI Shtip during the interviews with people who are serving or were serving the solitary³⁰, the former underlined that when sent to solitary they were not checked by the doctors (the NPM confirmed this through the folders where the draft-report not always contains the opinion of the doctor pursuant the Law on execution of the sanctions). At the same time, the NPM does not agree with the praxis for the doctor to issue an opinion that confirms that the health condition of the people allows their presence in the solitary, and believes that Article 179 paragraph 4 of the Law on execution of the sanctions should be completely obeyed. The legislators had stipulated that the doctors should give their opinion regarding the health of the convicted person, without prejudging their capability for solitary.

In PCI Struga some of the convicted people complained that they have not been regularly visited by the doctor while in solitary. The inspection in the medical documents revealed that there is no data that would confirm that the doctor visits these people daily and NPM concluded that the Article 181 paragraph 4 of the Law on execution of the sanctions is not

²⁹ Recommendation No R (98) 7 concerning the ethical and organizational aspects of health care in prison – Council of Europe – Committee of ministers adopted on 8 April 1998 at the 627 meeting of the Deputies.

³⁰ As well as during the interview with another person in the semi-open unit who had served disciplinary penalty – solitary in the semi-open unit during the past month.

fully implemented. The NPM has received similar complaints in several institutions and that is why in their separate reports they reminded the management of the institutions that pursuant the obligations of the Law on execution of the sanctions, the people who serve the solitary should be visited by the doctor on daily basis. The NPM believes that this praxis cannot be implemented in the PCIs who have employed doctors and implement the health care through an agreement with a doctor from the nearby health care institution.

The convicted people situated in the admission department complained that their access to the doctor is restricted and that they have still not been checked by a doctor although the legal obligation says that the person should be checked by a doctor within 24 hours upon their admission in the institution (Article 10 of the House Order). When acting upon this kind of case in PCI Shtip where the convicted person was admitted and present in the institution for a week, the NPM team concluded that the medical chart of this person was empty. The medical document for this person that was transferred in PCI Shtip from another PCI was not delivered, so the doctor in PCI Shtip did not have insight for previous diseases or therapies. Therefore, the NPM team requires obedience of the recommendation issued by the Council of Europe regarding the ethic and organizational aspects of the health care in the prisons (item 18: *“all the transfers from one to another prison should be accompanied with the complete medical documentation. The registry should be transferred in conditions that will provide its confidentiality. The convicted people should be informed that their documents will also be transferred”*.³¹)

In some of the PCIs the NPM found irregularities in the medical registrations, as well as empty medical charts for the convicted people. In PCI Struga the NPM stated that the data registered in the ambulance book do not correspond to the data in the medical charts. Two out of five medical charts that have been inspected by the NPM on random choice were empty. One of them did not have any data except personal information of the convicted person, and the second chart contained only the basic data regarding the initial checkup performed after the admission. The NPM believes that each data for the health condition of the convicted person must be registered in the personal medical chart.

The NPM also stated that in several institutions the evening therapy is being administered to the convicted people by the security service. The NPM believes that in a situation when the evening therapy is administered by the officials, the health care sector must pay increased attention and undertake measures in line of full protection of the confidentiality of the data that refer to the illness of and the therapy. Otherwise, the relation doctor-patient would be violated and there is a serious risk that the confidential data for the health care of the convicted person to be shared or misused by other people.

The situation in PCI Idrizovo is very specific regarding the fulfillment of the right to health care due to the size of the capacities of this institution and the increased number of convicted people. The NPM team in cooperation with the external collaborator – psychiatrist had an interview with the psychiatrist (head of the health care unit) and the doctor that is responsible for the methadone center and inspected several medical files. In PCI Idrizovo there is primary health care and a special methadone center which include one doctor, one nurse and one laboratory assistant. In PCI Idrizovo there are four doctors, out of whom one is a psychiatrist

³¹ Recommendation No R (98) 7 concerning the ethical and organisational aspects of health care in prison

and the convicted people in this institution receive full access to psychiatric services and treatment.

The external collaborator-psychiatrist of the NPM in the interviews with the health care service and the convicted people has concluded that the institution accommodates people with psychological difficulties such as paranoia. Some of them have shown partial incompetence and they are accommodated in different units of the institution. The NPM reminded the Directorate for execution of the sanctions to the European prison rules according to which: *“there should be special institutions or units for the convicted people who suffer from psychological disorders or abnormalities where they will be under medical control and treatment, and special attention is paid to prevention of suicide”*.³² At the same time the recommendation Rec (98) 73 of the Committee of ministers within the Council of Europe requires that *“the prisoners who suffer from psychological disorders to be accommodated and treated in the medical unit that is suitably equipped and that employs appropriately trained staff”*. Article 126 of the Law on execution of the sanctions says that *“the convicted people who will be noted for physical or psychological disturbance as well as certain addictions will be subjected to medical treatment in the institution and when necessary, they will be sent to receive medical assistance in the appropriate medical institution”*.

The inspection of the medical charts in PCI Idrizovo showed that the people for whom the health sector concluded that they have suicidal intentions and social disturbances are sent to solitary. The NPM finds this solution to be inappropriate.

The users of methadone therapy in PCI Idrizovo have special charts and they sign agreement in which they agree for urine check due to possible use of narcotics i.e. those who receive methadone therapy are obliged to regular urine control. The people who receive methadone therapy or at least most of them are accommodated in the hospital. During the inspection of the medical charts of those people who complained for the health care, it was concluded that the charts are alright and that they contain the documents from the specialist's checkups and X-ray data. This led to the conclusion that the medical service, when necessary, sends the people to specialists.

³² Item 57.1 of the European Prison Rules

Positive example:

The NPM wants to emphasize the **work of the doctor in the prison Prilep**. The biggest part of the detainees and convicted people with whom the Ombudsman had interviews did not complain for the health care that they receive in the prison. The person who was sent to solitary informed the NPM that before being referred to the solitary, they were checked by a doctor and that the doctor visits them every day. This leads to the conclusion that the doctor implements the provisions of the health care determined in the Law on execution of the sanctions. The people in the admission unit also confirmed that during the admission they were checked by a doctor. One of the people had inflicted a self-injury was timely taken to a doctor, and their medical chart was neatly regulated.

The checkups are performed without the presence of the security service, but if deemed necessary, in cases of aggressive or risky patients, a representative of the security service is present. The doctor is included in the control of the food, its quality and registration in the book of food quality.

The NPM welcomes the situation of the medical journal and medical charts – the doctor notes the injuries of the convicted people as well as the statements/allegations of the people for the infliction of the injury (beating, punches) and appropriately informs the other prison services (security sector and/or re-socialization sector). In this manner, the preventive role of the doctor is being emphasized. Pursuant to the European Prison Rules the doctor “*is obliged to register and inform the competent services for any sign or indication that the prisoners have been treated in a violent manner*”.³³

2. Right to education

The penitentiary-correctional institutions do not provide the right to education in the manner stipulated in the legal regulations, bearing in mind the mandatory primary and secondary education. The NPM reminds that “*Each prison should insist to enable the prisoners access to the education programs which need to be complete and meet their individual needs, bearing in mind their affinities*” pursuant to the Recommendation Rec (2006)2 of the Committee of ministers to the member states for European Prison Rules. Priority will be given to the convicted people who are illiterate or do not have the primary or secondary education.

Only PCI Idrizovo has concluded an agreement with the primary school for education of adults “A.S. Makarenko” – Skopje. 48 convicted people applied for classes. During an interview with a convicted person the NPM received information that although the professors come to classes, the convicted people do not show up because they think that there are no capacities for the education process. During the inspection of the classroom the NPM concluded that it has capacities and the convicted people who are interested in classes and education can divide themselves into groups and visit the classes.

³³ Article 42.3(c) – Council of Europe, Recommendation (2006)2 of the Committee of ministers of the member states regarding the European Prison Rules.

3. Right to work

The degree of work engagements in the penitentiary-correctional institutions in the Republic of Macedonia is very low and unsatisfactory. Having in mind the goal of the re-socialization the NPM concluded that only the inmates with less severe treatment (semi-open or open) may gain and develop working habits and professional knowledge for work when free. However, the NPM has concluded that this right is accomplished by a very small number of convicted people due to several objective and subjective reasons. Positive examples can be seen in the prison Bitola (45% of the convicted people work) and PCI Struga (43% of the total number of convicted people work). NPM finds this to be a positive factor that influences the accomplishment of a successful process of re-socialization of the convicted people.

In most of the penitentiary-correctional institutions the convicted people in the closed units are not engaged to work. During the visit of the closed unit in PCI Shtip only 1 person (total number of prisoners 90) was engaged to work (in the bakery). The Ombudsman – NPM believes that this lack of inclusion in work contributes to development of the culture and negatively influences their process of re-socialization, and the people have difficulties in the adaptation to the prison conditions. The work engagement should result with working habits and skills for performance of certain tasks; maintenance of the psychological and physical capacities, successfully realized process of re-socialization and enabled people for execution of certain types of professions and individual provision of living in the freedom.³⁴

The lack of activity and productivity as well as the lack of additional activities in the closed unit can have a contra-productive influence over the process of re-socialization and non-fulfillment of the goals of the prison sentence that needs to improve the person and help them gain working habits that will help them in the post-penalty system of reintegration.

The people who are in detention and are accommodated in the detention units of the institutions are not included in the working process in the economic department or the regular working activities which are implemented within the prison, due to the nature of their deprivation of liberty and due to the fact that they spend most of their time closed in the detention room. The Rulebook of the House Orders for execution of the detention in the detention units of the prisons³⁵, Article 22, stipulates obligation for the management of the prison to enable conditions for work of the detainees upon their request, if they are allowed to work by the investigative judge or the president of the council.

The NPM concluded that none of the penitentiary-correctional institutions does not implement this provision in praxis mostly because the current systematic solutions and the material and technical preconditions in the prisons and the physical separation of the detention units from the economic units does not provide practical implementation of this Article.

³⁴ Excerpt from the internal document of PCI Shtip: Procedure for realization of the work engagement of the convicted people in PCI.

³⁵ Official Gazette of the Republic of Macedonia no. 101/2011 (Published on 26.07.2011)

4. Right to outdoor stay and recreation

The biggest problem underlined by the NPM is the limited and restricted space of movement of the people who are in detention. Namely, these people spend most of their days in their rooms (22 hours) and only one or two hours outside their rooms. The outdoor activities for less than 2 hours are contrary to the legal regulations which require that the detainees should have at least 2 hours outdoor activities on daily basis. These remarks were sent by the Ombudsman – NPM to the managements of several penitentiary-correctional institutions (Prison Tetovo, Prison Prilep, etc.) and reminded them that the right to outdoor stay should always be fulfilled pursuant to the provisions of the Law on execution of the sanctions. The limitation for one hour of outdoor stay and walk is only for the people who are in solitary, but not for the other categories of people deprived of liberty.

The NPM requested that the PCIs should fully obey the provisions of the Law on execution of the sanctions; Article 112 stipulates that “*the convicted people should be provided with the right to spend at least 2 hours outside their closed rooms on daily basis*”. Based on this, all the convicted people should be allowed to do this, except those who are serving the penalty in solitary.

Appropriately, the NPM requested this from the management of the PCI Shtip for the people who are accommodated in the admission unit and the people who are separated from the closed unit³⁶ by the management of the prison Prilep where the people in the closed unit have the possibility to use the main walking ground of the prison for only one hour a day; from the management of the prison Strumica where the duration of the outdoor stay represents a problem for the convicted people in isolation; the management of the prison Tetovo where the convicted people placed in the admission unit, except the person in solitary, must be provided with a right to spend at least two hours outdoors, pursuant to Article 112 of the Law on execution of the sanctions.

The people from the semi-open/open unit have right to a longer outdoor stay during the day compared to the people who serve in the closed unit.

5. Right to food

Most of the remarks and complaints that came from the people deprived of liberty referred to the amount of meals and quality of food. In some of the PCIs during the visits there was a serious lack of food. During the inspection of the storage room of PCI Idrizovo the NPM concluded that there is lack of basic food products that are necessary for preparation of meals.

The detainees and the people placed in solitaires receive and consume their food in the rooms where they are accommodated. The hygiene in these rooms is on very low level and this might pose a serious risk for their health. The NPM finds this praxis to be degrading bearing in mind the low and unsatisfactory material conditions in these rooms.

³⁶ Separation of the person deprived of liberty is made in case of serious violation of the house order of the institution or when a criminal act is done. This person is a serious danger to the security of the officials and other people in the institution. Furthermore, the separation is made in order to secure the crime scene and to separate the doer of the deed from the witnesses. Manual for the conditions and manner of use of force by the representatives of the security sector in PCI and ECI.

Part of the institutions faces lack of utensils. This was mostly expressed in PCI Idrizovo in Skopje. The NPM underlines the obligation that the prisoners need to use standard utensils from materials which meet the standards for food security.³⁷

In several units in PCI Idrizovo – Skopje the complaints referred to the time when breakfast is served. Most of the prisoners underlined that their breakfast is served the night before and they do not have the appropriate conditions in their rooms to store the meal. However, in the process of preparation of food the prisons pay attention to the religion and the religious needs of the people deprived of liberty.

In some of the institutions (PCI Shtip, Prison Bitola, etc.) the NPM concluded that the book on quality control of the meals is not regularly maintained and this refers to the conclusion that the control is not being made on daily basis. In that line, due to the concluded disadvantages, the NPM expressed concern in the part of surveillance of the quality of the food and asked the management and the doctor to pay more attention to the process of preparation of the meals, their energy value and to provide regular and continuous quality control of the food.

In most of the instructions there is no special diet for the people who suffer from diabetes, hepatitis, etc. The NPM reminds the PCIs (especially the health care departments) that the obligation for diet of the ill people deprived of liberty is stipulated in Article 110 paragraph 3 of the Law on execution of the sanctions.

Regarding the prison food most of the people to whom the NPM talked in the prison in Tetovo spoke well of the food, they were satisfied and did not complain about the meals, but they were unsatisfied with the size of the breakfast and the dinner. Similar condition was encountered in PCI Struga.

6. Submission of complaints and contacts with the outside world

During the conversation with the convicted the NPM concluded that in most of the institutions the people have right to submit complaint or a request for meeting with the principle. Usually the manner of submission is in written through the department of re-socialization or through the security sector. In some of the institutions, such as PCI Shtip, the convicted underlined that the conversations with the principle are not confidential because other employees are present. In some of the institutions the convicted stated that the principle visits the accommodation capacities of the institution (PCI Idrizovo, prison Bitola), whereas in the other institutions the people deprived of liberty complained that the principle does not visit them (for example, the detainees in the prison Prilep).

All of the PCIs have a mailbox of the Ombudsman where the people can submit a complaint in case when they believe that their rights have been violated or when they cannot fulfill them. During the inspection of the prison Strumica the NPM stated that the duty service has a direct insight in the mailbox of the Ombudsman and there was a piece of paper glued to it that said “Directorate for execution of the sanctions”. This may confuse the convicted. During the visit of the prison Tetovo the NPM concluded that the mailbox of the Ombudsman is out of order, it can be easily opened and all the convicted people have access to it, as well as the

³⁷ Rulebook on the norms for preparation of food of the prisoners, adopted by the Minister of Justice on 25.03.2009.

prison services. Furthermore, the NPM concluded that the principle and the security service of the prison Tetovo, using the video surveillance, have direct insight over the mailbox because it is in the scope of the video surveillance through the camera that is installed in the TV hall.

The convicted and the detainees are rarely or never visited by judges competent for execution of sanctions, the president of the Primary court or another judge although that is stipulated in the Law on execution of the sanctions and the Law on criminal procedure. These visits are regular only in the prison Bitola, whereas in the prison Prilep, according to the data received from the management, the president of the Primary court Prilep visits the institution once a week.

The convicted have contact with the outside world through the visits of their closest relatives (spouse, family) and through phone calls in accordance with the positive-legal regulations, the house order and in time regulated by the principle. The NPM did not receive many complaints of the convicted regarding the fulfillment of the right to visits. However, in praxis, there are problems when the convicted person lives with someone in extramarital community. In several of the PCIs the convicted complained that they do not have access to telephones, that the public phone boots are out of order which leads to impossibility for contact with the outside world.

B.3 Treatment of the people deprived of liberty

In most of the penitentiary-correctional institutions visited by the Ombudsman – NPM during 2012 the detainees who were interviewed did not complain for torture or other cruel, inhuman and degrading treatment. Most of the people did not have remarks regarding the treatment and the behavior of the prison services and the employees in the security sector believe that the act in a correct manner.

The NPM expressed their concern regarding the efficient investigations of the prison management when there is the smallest doubt of any physical insult or violence between the convicted people as well as violence inflicted by the services. These indicators for possible cases were identified in the prison Prilep, PCI Idrizovo, PCI Shtip and Prison Strumica. The allegations for the above-mentioned cases were expressed by convicted people who have been in solitary or serve the closed treatment accommodated in the closed units of the institutions. The cases were described in detail in the separate reports sent to the managements of the PCI and the Directorate for execution of the sanctions within the Ministry of Justice of the Republic of Macedonia. Part of the allegations, upon the request of the submitting party and with their consent, was delivered to the regional offices of the Ombudsman due to further subject interrogation.

Although most of these people did not submit official complaints to the management of the prison or an objection to some of the external control mechanisms, the NPM believes that it was necessary to investigate the allegations and to determine the facts for the concrete cases because the NPM got confirmation from other convicted people during the interviews. During the visit of PCI Idrizovo – Skopje some of the convicted (in the admission, closed and female unit) complained that the security service treated them inappropriately, used force and

acted in inhuman and/or degrading manner. Part of the convicted people complained for violence among the convicted, as well as threats and fear for the personal security.

The prison in Prilep is very specific because the management of the prison did not undertake efficient and concrete measures in line of interrogation of the allegations although the prison doctor stated that the person had injuries and the ambulance journal contains data which confirm that the convicted person was beaten. The specialist surgeon added that the person was hit with a fist.

In that line the NPM reminded the management of the prison to the obligations which arise from the Convention against torture and other type of cruel, inhuman or degrading treatment or punishment of the United Nations 1987³⁸. Article 12 stipulates that *“Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction”*, as well as the obligations of the Declaration for protection of all persons from torture and other forms of cruel, inhuman or degrading treatment or punishment, 1975³⁹, Article 9 *“Wherever there is reasonable ground to believe that an act of torture as defined in article 1 has been committed, the competent authorities of the State concerned shall promptly proceed to an impartial investigation even if there has been no formal complaint”*.

In that line, the standards of the Committee for prevention of torture within the Council of Europe should be taken into consideration: *“If the information about the ill-treatment is not followed efficiently those who have the intention to exercise ill-treatment over the people deprived of liberty will soon realize that they can do that without being punished. . In the Committee’s view, even in the absence of a formal complaint, such authorities should be under a legal obligation to undertake an investigation whenever they receive credible information, from any source, that ill-treatment of persons deprived of their liberty may have occurred.”*⁴⁰

During the visit of the prison Bitola the NPM assessed that there is degrading treatment regarding the video surveillance of two of the bedrooms. During the inspection of the video surveillance in the duty room the NPM concluded that the video surveillance is positioned on two opposite walls in both rooms individually and thus provide full insight in both rooms, including the beds where the people sleep. The NPM believes that this video surveillance through cameras that record the people continuously is contrary to the Article 38 paragraph 1 of the Law on execution of the sanctions according to which during serving prison the human’s dignity must be respected, also confirmed in the Law on protection of the personal data.⁴¹ According to the Rulebook on protection of personal data during video surveillance⁴², when the camera is in the internal rooms it may be directed and record offices that are relevant for protection, but not the surrounding rooms which are considered to be private (toilets, kitchens, resting rooms, cloak room, etc.). In that line the NPM requested

³⁸ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, entry into force 26 June 1987

³⁹ Declaration on the Protection of all persons from being subject to torture and other cruel, inhuman or degrading treatment or punishment , 09.12.1975

⁴⁰ Excerpts from the 14th General Report (CPT/Inf (2004)28)

⁴¹ Official Gazette of the Republic of Macedonia no. 07/2005, 103/2008, 124/2010 and 135/2011

⁴² This Manual was issued by the Department for protection of personal data, and the project is financed by the European Union

amendments in several articles of the Rulebook for execution of the video surveillance in PCI Bitola. The management of the prison acted appropriately and amended and implemented the recommendations.⁴³

Also, the NPM had interviews with a group of convicted people from the Roma ethnic community in the prison Strumica and they complained to maltreatment and degrading treatment from certain people employed in the security service. In that view, the NPM informed the management of the prison that there are complaints for physical ill-treatment from certain employees in the security service and the management responded that there is a disciplinary procedure initiated against one of the employees whereas for the other one, there were no complaints submitted by the convicted people.

B.4 Records and registries

The general conclusion for the penitentiary-correctional institutions that were visited during 2012 is that the book keeping is not unified. This situation is worrying and the NPM believes that the book keeping, the registries and the records must be regulated by the Ministry of Justice of the Republic of Macedonia.

The NPM inspected several prison registries. During each individual visit it inspected at least two of the following registries:

- Register of disciplinary penalties
- Register of use of force over convicted or detained people
- Register of prosecution of the convicted people
- Register of searches, and
- Register of complaints from convicted people

The NPM inspected the Registries of disciplinary penalties and concluded that the number, full name, the type of disciplinary penalty and its duration are registered. The NPM also believes that this register should contain the name of the official who gave the proposal for disciplinary measure against the convicted person. The NPM also concluded that correction fluid was used and believes that this praxis can be misused (this was concluded in the prison Bitola). In that line, the NPM requested that the deletion of the incorrect data should be crossed with one line (this will point to the irregularity of the data, and at the same time the data will be legible). Furthermore, in some of the PCIs the NPM concluded that there is incorrect book keeping made by the services (PCI Struga). The NPM believes that the prison services should pay more attention to the book keeping, especially when speaking about the registry of disciplinary penalties.

During several visits the NPM pointed that the Register on use of force should be used to note their application including the short-term tying and use of handcuffs. The NPM concluded that the use of force “separation” is not noted – the separation, as means of force, should always be noted in the appropriate Registrar, and the NPM believes that its duration should be restricted to the time necessary for accomplishment of the goal.

The NPM stated that in the prison Tetovo and PCI Struga there is no separate registry for the complaints which the convicted submit to the management of the institution⁴⁴. These

⁴³ According to the data received in the response of the management of the prison Bitola

⁴⁴ In the responses of the separate reports the NPM was informed that in the prison Tetovo the registration of the complaints started in February 2012, whereas in PCI Struga there is a separate complaint registry kept by the services, and pursuant the Law on administration of objections and proposals, a commission was formed for

complaints are registered in their personal files and are sent to the management team through the sector of re-socialization. Contrary to the praxis in PCI Struga, most of the remaining PCIs have separate registers for complaints of the convicted people.

The NPM issued a recommendation for the penitentiary-correctional institutions that each page of the prison registers should have the seal of the PCI and the date. This is additional protection measure to prevent misuse of the data.

The NPM welcomes the separate register for detainees against who the Ministry of Interior used force in the process of detaining. The NPM encountered this praxis during the visit of the prison Tetovo and believes that it is in line with identifying the possible cases of unprofessional and incorrect police behavior.

The general conclusion is that the professional files and personal sheets in the PCI are kept neatly and satisfactory by the services and the sector of re-socialization. They contain all the necessary data for the convicted people, their treatment and progress. Appropriate documents are attached (biography and data for the convicted person, progress/re-progress documents, instrument for solitary accompanied with doctor's opinion, reports from individual interviews, etc.).

The NPM concluded that only part of the PCI have prepared and adopted a separate act (Rulebook) on the manner of execution of the video surveillance as an obligation stipulated in the Law on protection of personal data.

B.5 Responses from the Penitentiary-Correctional Institutions and the Directorate for execution of the sanctions within the Ministry of Justice of the Republic of Macedonia

Pursuant to Article 3 of the Law amending the Law on Ombudsman, the officials in the institutions and organizations where the freedom of movement is restricted are obliged to act upon the recommendations of the Ombudsman and to inform the latter within 30 days starting from the day when the individual report was received.

The managements of the institutions agree with the negative conditions and the identified risks and agree to inform the Ombudsman – National Preventive Mechanism for the measures which they plan to undertake in order to improve the conditions.

The Ombudsman asked for additional explanations and information upon the received responses. The degree of implementation of the recommendations is measured by the follow up visits which are focused on assessment of the undertaken measures pursuant to the responses received from the managements of the institutions and the Directorate for execution of the sanctions.

In most of the responses the NPM was informed that in the PCIs where complaints were filed against the treatment of the services towards the convicted and detainees, mostly from the employees in the security sector, the managements of the institutions held working meetings with the employees and reminded them of the professional and ethic behavior towards the

acting on the objections submitted by the convicted people. However, during the visit, the NPM was informed that these registries do not exist in the above-stated prisons.

convicted pursuant to the Law on execution of the sanctions, the Code of ethics as well as the prohibition for prevention of torture or other cruel, inhuman or degrading treatment. The employees were also warned that this kind of behavior is subject to penalties. The NPM believes that the employees need additional training for behavior with the people deprived of liberty.

The convicted people in some of the institutions are encouraged by the management to report any violence before the person responsible for objections and complaints in line with the measures for appropriate investigation.⁴⁵

The NPM noted several disagreements with some of the issued recommendations and therefore, they will have additional interviews with the managements of the respective PCIs in order to find appropriate solutions and to obey the findings and the recommendations issued by the NPM. However, in the responses the NPM noted that certain recommendations are not accepted regarding the implementation of certain legal solutions. For example, the principle of the prison Bitola does not agree to place a mailbox where the convicted people will submit requests for medical assistance, but at the same time is an obligation that arises from Article 42 paragraph 3 of the House Order for the convicted people.

In another example the NPM also encountered certain disagreements regarding the application of the “separation” such as the use of force and the NPM believes that this should be appropriately noted in the register of use of force. This will present a written act that will enable the convicted person to ask for appropriate legal remedy. The management of PCI Shtip did not agree with this recommendation and in their response they stated that they act pursuant the Rulebook for the conditions and manner of use of force by the representatives of the security sector in PCI and ECI. However, the NPM referred to the obligations which are stipulated in the Law on execution of the sanctions, the bylaws and recommendations from the Committee especially bearing in mind that the “separation” can last for three days.

The Ombudsman – NPM was informed by the Directorate for execution of the sanctions within the Ministry of Justice for the plans for reconstruction and construction of new units in the prison Skopje and PCI Idrizovo in Skopje.

⁴⁵ This was the response submitted to NPM from the prison Strumica.

C. PSYCHIATRIC HOSPITALS

During the reporting year the Ombudsman – National Preventive Mechanism had three regular, unannounced visits of the psychiatric hospitals Skopje, Demir Hisar and Negorci accompanied by an external collaborator – psychiatrist pursuant to the Memorandum for cooperation signed by the Ombudsman of the Republic of Macedonia and the Association of psychiatrists of the Republic of Macedonia. The aim of the visits, pursuant to the Optional Protocol was to identify the risks due to prevention of torture or any other kind of cruel, inhuman or degrading treatment or punishment upon the inspection of the material conditions in the public health institutions, the treatment of the patients, the fulfillment of the rights guaranteed by the Law on mental health, the Law on protection of the rights of the patients and other legal acts, as well as the registries regarding this category of people.

During the visits several interviews were carried out with the patients in these institutions and the NPM team, accompanied by the external collaborator had meetings with several employees who during the visits were at work (doctors, nurses, technicians, etc.). At the same time the immobilization registries were inspected, as well as the admission sheets, the plans for individual treatment and several medical files of people accommodated in the psychiatric institutions. The visits of the hospitals were made in full cooperation with the management and the employees and the NPM had full insight to the places of accommodation, as well as complete freedom in the choice of people for interview.

Treatment of patients

During the visit of the *psychiatric hospital Skopje* the NPM did not receive any complaints from the patients for torture and cruel treatment and the behavior of the staff was assessed as correct. However, in a conversation with a parent of a patient the NPM was informed for possible inhuman and/or degrading treatment because during the admission in the hospital the patient was admitted in a cruel and degrading manner by 2 people (presumed as medics) and the patient was handcuffed. At the same time, when accommodated in the immobilization room, the person was immobilized with use of leather belts; there were two other people who were not immobilized. This way of immobilization scared the parent because they thought that their child will be harassed by the other two who were also under surveillance due to their anxiety. Regarding the information the NPM asked the management of the psychiatric hospital to adopt a protocol on transfer of the people from one unit to another and to pay more attention to their personal integrity for their health. Furthermore, they recommended that while one person is immobilized in the immobilization room another person cannot be placed there if not immobilized.

In the *psychiatric hospital Demir Hisar* the NPM had interviews with the patients and did not hear complaints for torture and cruel treatment. The behavior of the staff was assessed as correct. It was stated that in this hospital the electro convulsion therapy is not used because it is believed to be an inhuman method that inflicts pain if not applied with anesthetic.

In the *psychiatric hospital Negorci* during the conversations with the patients the NPM did not hear complaints for torture or cruel treatment and the behavior of the staff was assessed as correct except in a few cases where the patients complained that the medics threaten them when the former do not want to take the therapy. The NPM saw that in this psychiatric hospital one bed is used by more than one person in the chronic unit B and this treatment was assessed as degrading and inhuman. Although the overcrowding is due to the process of

reconstruction in the psychiatric hospital, the NPM states that it is not allowed for more than one people to be placed on one bed. This behavior violates the Law on mental health which stipulates that “*the dignity and the privacy of a person with mental illness needs to be obeyed*”⁴⁶, as well as that “*the person that has a mental illness has the right to equal treatment regarding the care and rehabilitation as the people who are ill from other diseases*”.⁴⁷

Voluntary and forced hospitalization

The manner of hospitalization can be voluntary or forced. Pursuant to the Law on non-litigation procedure when a person is admitted with their consent they should submit a statement in written in front of two adult witnesses who are not employed in the public health institution and are not relatives with the person that is being admitted. In the ***psychiatric hospital Negorci*** the people who are hospitalized with use of force are accommodated in the acute urgent unit. The hospital has cooperation with the Basic Court in Gevgelija for deciding on forced hospitalization. The Law on non-litigation procedure, Article 59 stipulates that “When the health organization will admit a mentally ill person without their consent or without court decision the competent person of the public health institution is obliged to submit a report to the court within 48 hours”. Furthermore, Article 65 stipulates that “The Court is obliged to interrogate all the significant circumstances that are significant to the adoption of the decision and to hear the person that is being checked, if possible and if it does not influence their health”. During the visit in the psychiatric hospital there were 217 patients and pursuant the information, they were voluntarily hospitalized, except the people who were sentenced with a security measure.

At the same time in the ***psychiatric hospital Demir Hisar*** the NPM found a case of a patient that was voluntarily hospitalized and who besides the positive opinion of the doctor, is not allowed to leave the hospital⁴⁸ which directly violates the principle of free will, as well as the implementation of the provisions stipulated in the Law on mental health.

In the ***psychiatric hospital Skopje*** the NPM concluded that the provisions stipulated in Article 59 paragraph 2 of the Law on non-litigation procedure are not implemented. This provision can hardly be applied (or it can be applied in very few cases) because two adult witnesses who are not employed in the public health institution and are not relatives of the admitted person can hardly be found. Also, the provisions regarding the forced hospitalization are not implemented into praxis and the problem with providing court solution within 3 days still exists.

The NPM expressed concern in this domain in the ***psychiatric hospital Skopje*** for the “former court cases” who having in mind the social life, still continue to live in the hospital as chronically ill people who are accommodated there in voluntary base due to the stigmatization and non-acceptance of the family and the environment.

⁴⁶ Article 7 of the Law on mental health

⁴⁷ Article 8 of the Law on mental health

⁴⁸ During the inspection of the medical file the NPM assessed that the doctor, pursuant to Article 24 paragraph 1 of the Law on mental health, gave an opinion that the condition of the mental health of the person is improved and they can be referred to additional treatment and care in the community, but the medical staff confirmed that they wait for a member of the family to pick the patient.

Immobilization

In the *psychiatric hospital Skopje* a special protocol is applied which has elaborated the policy and the rules for restriction measures (immobilization) of patients and the means which may be used.

In the Register of immobilization at the urgent male unit the duration of the immobilization is not registered. Only the hour of the beginning of immobilization is registered, and during the immobilization there is no permanent presence of a medical person in the room, but the surveillance is made through the window of the room of the nurse and the medical technicians. The NPM has assessed that the separate acute psychological list is not filled for the newly admitted patient who was immobilized during the night. In the urgent male unit there is praxis that while one person is immobilized in the immobilization unit, there are also other people under surveillance who are not immobilized and this poses danger for the personal safety of the former.

In the *psychiatric hospital Negorci* a special protocol on physical restriction is applied for the patients and their immobilization as well as the means which may be used. In the register, the time of immobilization was not noted i.e. the time when the immobilization ended, and in one case, there was no signature from the doctor who was responsible for the immobilization. Textile bands are used for the immobilization. These are not standard and are made from the hospital, so the NPM is concerned about the safety of the patients and finds it necessary for means which fulfill the international standards to be used.

In the *hospital Demir Hisar* a special protocol on physical restriction is applied for the patients and the means which may be used for the immobilization. The NPM assessed that none of the units has a separate immobilization room. At the same time, the NPM received information that during the immobilization there is no member of the staff in the room. This behavior is not appropriate the protocol where an article stipulates that a member of the staff should be present all the time in order to provide medical supervision of the immobilized person. The registry sheets for physical immobilization the time of the immobilization was not noted for several cases.

Accommodation in other rooms in the psychiatric institutions

In the *psychiatric hospital Skopje* it was assessed that the material conditions do not meet the standards: most of the objects are old and are not reconstructed, the toilets and the bathrooms are partially ruined, dirty and unadjusted for this category of people; the beds and the mattresses are old. Especially concerning is the situation with the “former fifth unit” and it requires urgent reconstruction. In this process the reconstruction process has begun, but the progress in the construction of new objects is not on satisfactory level and it is ongoing very slowly. Due to the current construction works there was overcrowding of the capacities in some of the units especially in the unit for prolonged treatment, rehabilitation and re-socialization and the unit for prolonged treatment and care. In the unit on urgent psychiatry there were different categories of people: disturbed and violent patients, on one hand and people with long-term chronic, but more stable condition, on the other. The patients of different gender are accommodated in different units; this is very positive compared to the manner of accommodation of people with mental diseases.

In the *psychiatric hospital Negorci* most of the units meet the international standards. The temperatures and the dampness were within the allowed parameters and most of the rooms in the acute, chronic and the unit for treatment of misuse and addiction to alcohol there was no overcrowding. The rooms have heating appliances and the beds have sheets. The reconstructed units have closets for personal belongings in the rooms, and there is a separate living room in all the units where the therapeutic community has meetings. The court unit has a wide living room with new tables and chairs, television, as well as a cooling appliance for the summer period. Every unit has a small yard and the patients may fulfill their right for outdoor stay in the big yard where relaxed conditions were noted, as well as possibilities for certain sports activities of the patients. It was assessed that the conditions in the chronic B unit do not meet the minimal criteria and that there is not sufficient number of beds. The toilets were dirty.

The conditions in the court unit in the *psychiatric hospital Negorci* are worse compared to the other units, the floor has old laminate, the closets for the personal belongings are old, and the rooms were painted in gray which gives the impression that the rooms are very dark and that there is lack of light. These rooms do not comply with the international standards because there is overcrowding in part of rooms of the court unit.

In the *psychiatric hospital Demir Hisar* there is partial reconstruction of the accommodating capacities. Part of the units fulfills the standards for accommodation of the patients according to the size, the inflow of daylight, the ventilation and the equipment (unit for treatment of abuse and addiction to alcohol, acute unit). During the inspection of the rooms of the acute female unit the NPM concluded that the rooms have beds with neat sheets and most of the beds had new mattresses. The rooms have sufficient inflow of daylight, there are heating appliances, and the floors are made of rubber base. However, part of the units do not fulfill the standards, part of them are old and require reconstruction, the toilets and the bathrooms are partially ruined, dirty and unadjusted for this category of people.

In this hospital the court unit is not used because there was fire and is still not recovered. For the time being, the people are accommodated in the former chronic male unit for which the European Committee issued a recommendation to be closed. Several people who are sentenced to this measure of security as well as the detainees are placed in other units of the institution. The bad condition of the toilets was noticed in most of the units. The toilets in the chronic male unit are not reconstructed and are in bad condition because they are not adjusted to the needs of this category of people.

In the *psychiatric hospital Skopje* it was stated that the patients are given the possibility to watch television in the living rooms that are part of the hospital's units.

All the psychiatric institutions have separate units for working therapy where the patients are included upon their own will. However, the NPM concluded that only a small part of the hospitalized people is included in this therapy. This situation is mostly the result of the nature and degree of development of the illness, but the NPM believes that it also depends on the degree of motivation of the people on the behalf of the staff. These units in Skopje and Demir Hisar also have gyms, table tennis and rooms for working therapy.

The NPM inspected the unit for occupational therapy in the psychiatric hospital Negorci that is in a separate building. The same building accommodates 3 social workers who help the patients to send requests for social aid to the social work centers. One of the rooms is used for working therapy where the patients spend their leisure time, but it was noted that this hospital does not have a separate gym for sports activities of the people accommodated in the psychiatric institution.

The kitchen in the *psychiatric institution Skopje* is not reconstructed, but it has well hygiene conditions and a bakery. The kitchen in the *psychiatric institution Demir Hisar* is newly equipped with the necessary utensils and during the visit of the NPM it was stated that it is clean and neat.

The dining room and the kitchen are fully reconstructed in *Negorci* and are part of the unit for abuse of alcohol and addiction. The dining room has new tables and chairs, floor and wall tiles and was neat and clean. The dining room has sufficient number of utensils as well as cleaning products. The kitchen has the necessary machines, but the NPM could not have information from the employees regarding the food supplies.

Treatment and therapy

During the visits the NPM concluded that the *psychiatric hospital Skopje* has individual plan for treatment and rehabilitation for every patient. In the *psychiatric hospital Demir Hisar* the patients' histories are well managed, and regarding the monitoring of the psychological and overall health conditions, the doctor keeps the decursus morbi (notes for the development of the disease) and makes notes once a month; they register the chronology of the events with the patient, when needed, and also, when necessary, the hospital can use the laboratory to run routine laboratory tests.

The inspection of the rooms of the *psychiatric hospital Negorci* showed that there is an individual treatment for every patient. A list of the behavior of the patient is kept for the first 10 days of the admission and the behavior, food; therapy and sleeping are being registered. The average time of stay is 1-1, 5 month and then, if there is improvement in the conditions, the patients go home or are transferred to another unit. At the moment of inspection of the history of the disease of the patients, the NPM concluded that some of the files had the history of disease of the last visit only, but not the previous ones. The histories are complete, legible and confidential, and during the admission the patient is also checked. When the therapy is prescribed, the age is taken into consideration. A person in PHI that had tuberculosis was stated that all the appropriate measures are undertaken for their treatment. The drugs are appropriately kept, and at the same time, there is a written evidence for the treatment of the patients and the dosage of drugs.

Right of the patients

Regarding the rights of the patients in the psychiatric institutions the NPM paid special attention to the right to information, the right to dignity and privacy of the people who suffer from mental disease, protection from any kind of ill-treatment, degrading and abuse, provision of human and safe environment, right to work, right to accommodation in separate rooms in order to separate them from people of different gender, right to personal contacts with people from the institution and reception of visitors, right to contact with the outside world (telephone and post), right to own personal belongings and right to weekend leaves.

During the inspection of these rights it was stated that most of the units in the *psychiatric hospital Skopje* the house order of activities is pointed and as well as mailbox for complaints; the *psychiatric hospital Negorci* has the similar conditions – the house order of activities is pointed as well as a mailbox for complaints. It was stated that this institution fulfills the right

to human and safe environment and there is an access ramp in front of the unit of psycho-geriatrics. The patients have their own clothes and they do not wear pajamas while in the psychiatric institution. In the *psychiatric institution Demir Hisar* most of the units have the house order of activities, as well as mailbox for complaints.

The right to contact with the outside world is fulfilled in the *psychiatric institution Skopje*. The people are allowed to use the public phone booth positioned on the entrance of the hospital. The NPM concluded that the patients fulfill the right to visits from members of the family and close relatives. The right to own personal belongings is not fully implemented, and the hospital provides only pajamas and underwear. The rest of the clothes and shoes are provided through donations.

The right to dignity and privacy of the people with mental diseases is not fully implemented in the *psychiatric hospital in Skopje*. Namely, in most of the units the people take baths in unreconstructed bathrooms, but their privacy is not always respected i.e. sometimes they bathe with people from the opposite gender, and in some of the units (former fifth male) the patients help the other patients for bathing. Some of the toilets do not have doors and this violates the right of privacy of the patients. At the same time, most of the people accommodated in the units for chronic psychotic disorder do not have personal possessions, and some of them were wearing hospital pajamas.

In the *psychiatric hospital Demir Hisar* the NPM concluded that the patients are enabled to watch television in the rooms for daily stay. Furthermore, the right to contact with the outside world is fulfilled by using a public phone booth, and in some of the units the patients have the right to use personal mobile phones. The NPM was informed that the patients fulfill their right to visits from members of the family and the close relatives.

Regarding the rights which are fulfilled in the *psychiatric hospital Demir Hisar* it was assessed that the patients are allowed to take walks in the court of the hospital, and outside, but they pointed out that this right is limited during the winter. Most of the people in this hospital do not have personal possessions (chronic psychotic disorder), and some of them were wearing hospital pajamas.

In the *psychiatric hospital Negorci* it was assessed that the right to contact is fulfilled by allowing the people in the hospital to use public phone booth outside the hospital's canteen. Each unit has a small yard, but the right to outside stay can be fulfilled in the big yard where a very relaxed situation was noted, as well as possibilities for certain sports activities. Furthermore, it was noted that the patients have their personal clothes and do not wear pajamas while in the psychiatric institution. Regarding the right to dignity and privacy the NPM was informed that in certain cases the patients with mental diseases take group baths and the information was received from the medical staff that takes care of this category of people.

According to the European Committee for prevention of torture *"The food of the patients is another aspect of their lives to which special attention is paid. The food needs to be adequate regarding the quantity and quality and it needs to be provided in satisfactory conditions. There should be appliances that will enable serving the food at the appropriate temperature. Furthermore, the arrangement of the food needs to be decent. In that aspect, it should be underlined that enabling the patients to perform everyday activities such as eating with the appropriate utensils and sitting on a table, is integral part of the programs for psycho-social*

rehabilitation of the patients. Similar to this, the look of the food should not be neglected. The special needs of the people with disabilities should be taken into account”.

During the inspection the NPM stated that the ***psychiatric hospital Negorci*** has appropriate conditions for serving of food, and some of the patients complained for the quality of the meals. The NPM also received complaints from the patients for the quality of the food, and the staff confirmed that salad and dessert are not served everyday as part of the meal. The kitchen did not have the week menu.

The ***psychiatric hospital Skopje*** was assessed that it does not meet the energetic value regarding the quality and quantity of food, and especially worrying is the fact that there is lack of supplies and food products due to the fact that the deliverers are late.

A positive example can be seen in the ***psychiatric hospital Demir Hisar*** because there is a monthly menu and the daily list of meals was pointed, as well as a special list that has the number of people who need bigger meals.

Staff

In general, during the visits of the psychiatric hospitals the NPM concluded that there is lack of human resources that could give the appropriate care to the patients with mental diseases. The ***psychiatric hospital Skopje*** was assessed that it does not have the sufficient number of people who will meet the needs for treatment, rehabilitation and/or care of the patients. Similar situation is found in the ***psychiatric hospital Demir Hisar*** that has lack of human resources i.e. doctors specialists in psychiatry, psychologists and pharmacist. At the same time it was concluded that the hospital does not have well educated medical and non-medical staff. Especially important is the education of the non-medical staff of nurses and caretakers, because they are in contact with the people who are treated in the hospital and outside the hospital and yet, do not have previous medical education.

The ***psychiatric hospital Negorci*** also faces lack of human resources especially middle medical staff and medics. In that line, at the chronic unit B where people with mental sub-normality are accommodated there is only one nurse and one medic in one shift. The lack of staff leads to limitation of the freedom of movement of the patients who should be under surveillance and in that manner these patients are in worse position compared to the other ones. The hospital does not have a pharmacist and the lack of appropriate educative institution is still a serious problem.

Responses from the psychiatric hospitals

The National Preventive Mechanism received responses from the psychiatric hospitals Skopje, Demir Hisar and Negorci and was informed about the degree and manner in which the recommendations are being implemented.

The managements of the hospitals agree with most of the recommendations and informed the Ombudsman – National Preventive Mechanism for the measures that they will undertake regarding the removal of the disadvantages and improvement of the conditions.

In that view, the response from the psychiatric hospital Skopje is that they will obey the Law on protection of the patients and that the consent for voluntary accommodation will be harmonized. The management of the units is asked to increase the control for appropriate

application of the Protocol on immobilization. Special attention will be paid to the registration that is stipulated in the Protocol. The psychiatric hospital Negorci informed the NPM that they will have a regular application of the Protocol on immobilization and that in future, the hospital will put its efforts into supply of conventional immobilization means for the patients.

The same hospital adopted the Manual for the manner of admission, treatment and discharge of patients in accordance with the recommendation of the NPM. Also, the hospital staff was reorganized in order to have bigger presence of employees in the chronic B unit where the people with mental sub-normality are accommodated. At the same time, the positive attitude regarding the need of program for education of the employees in the psychiatric hospital. The psychiatric hospital Demir Hisar prepared an annual plan for education of the employees in this institution. Since the psychiatric institution Negorci does not have separate room – quarantine for people with infectious diseases, the management delivered a report that the Program for measures for protection and prevention of intra-hospital infections is adopted, pursuant the Law on health care and the Law on protection of the population from infectious diseases.

The psychiatric hospital Demir Hisar informed that in meantime they had employed a doctor – specialist in psychiatry and that there is an open call for employment of a pharmacist, physical therapist and seven nurses. The psychiatric hospital Skopje, regarding the need of bigger inclusion the occupational therapy, informed the NPM that the hospital has submitted a request to the Ministry of Health for consent regarding new employments of occupational therapists.

Most of the recommendations were accepted in line with the improvement of the conditions and the treatment of the people accommodated in the psychiatric hospitals and the material conditions will be improved with the measures undertaken for reconstruction of the accommodating capacities.

The NPM did not receive response from the Ministry of Health within the deadline, or later during the preparation of the report. This violates the legal obligation which the institutions and organizations with limited freedom of movement need to obey – to inform the Ombudsman within 30 days after the reception of the report regarding the activities upon the recommendations.

D. OTHER VISITED PLACES

In 2012 the NPM had regular unannounced visits of the Public institution for care and upbringing of children with social problems – Skopje, the Reception center for foreigners of the Ministry of Interior and the Special Institution in Demir Kapija. Although these institutions are not example of places for deprivation of liberty, the Ombudsman – National Preventive Mechanism decided to visit them according to the competences stipulated in Article 4 and Article 20 of the Optional Protocol of the Convention against torture and cruel, inhuman or degrading treatment or punishment.

The visits to these institutions have been realized in cooperation with the management and the employees in the institutions and the NPM team had unobstructed insight to the places for accommodation as well as full liberty in the choice of the people with whom they talked to.

G.1 Public institution for care and upbringing of children with social problems – Skopje

Pursuant to to the legal regulations the institution for accommodation of children and young people who have social or educational problems at the age of 7 – 18 or until completion of the high school, this institution admits and takes care of juveniles, performs observation and diagnostic, accommodation, education and corrective treatment depending of their needs for a period of three years.⁴⁹ The Juvenile center is situated in the same institution. This center is a measure used by the court when appropriate short-term measures are needed to influence the person and the behavior of the juvenile.

The public institution accommodates children and young people who have educational and social problems. The Law of Social protection does not have concrete definition for children and young people who have educational and social problems. Only Article 32 of the Law in the part of child with educational-social problems given the following definition “abused, neglected and socially unsecured child”. The NPM believes that it is necessary that the Law on social protection which regulates the institutional protection to have clear definition for the category of children and young people because in that way it will be precisely defined which category of people will be accommodated in this institution. At the moment, this institution accommodates juveniles who have committed criminal acts and they are dangerous for the other protégés.

The children who are accommodated in the institution expressed satisfaction from the management of the institution and stated that the principle is available for their opinions, suggestions and complaints. They are satisfied with the behavior of the employees in the institution and believed that their behavior is correct (there were several exceptions). There are no complaints for physical violence used by the employees, but there is violence between the protégés. The complaints mostly refer to the quality and quantity of the food and heating of the rooms.

However, one child was individually interviewed because of the serious allegations referring to physical and sexual abuse of this protégé by another one. This event occurred 3 years before the NPMs visits The NPM inspected the individual file of the child and it noticed an

⁴⁹ Article 118 of the Law on social protection (Official Gazette of the Republic of Macedonia, no. 79/09, 36/11, 51/11.

event described by the child and reported to the employees in the institution. The child stated that it was physically and sexually abused by another protégé. The NPM concluded that upon this report, the officials have not undertaken concrete measures and activities and decided that they will have additional interviews with the nurse and the social worker and decided to submit information to the Ombudsman in order to inform them and to ask for further measures in line with protection of the rights.⁵⁰ In that line, the NPM requested the management of the institution to undertake all the legal measures in the events that have elements of criminal acts and mandatory detailed investigation and reporting of any complaint of the juveniles for physical and sexual violence in order to initiate appropriate procedure and assessment of the liability.

Furthermore, the NPM requested undertaking of appropriate activities by the management which will investigate the complaints of the protégés for incorrect behavior of part of the night instructors and undertaking measures for establishment of professional and correct behavior for all the employees and respect for the dignity of the juveniles who are accommodated in this institution.

The NPM inspected the accommodation rooms and stated that the accommodating capacities meet the standards and are appropriately arranged for accommodation of juveniles. Furthermore, the juveniles have the opportunity to decorate the rooms themselves. Part of the inventory in the observation rooms is damaged and should be reconstructed in order to meet the conditions for accommodation of the newly arrived protégés in the institution. The conditions in the classrooms are satisfactory, appropriately heated and equipped for classes. Within the frames of the Institution there is the Center for juveniles regulated with the Law on juvenile justice. Although new, it has partial damages and it requires regular maintenance.

The NPM requested the institution to reconstruct and maintain the facilities for accommodation in order to protect them from permanent damages of the facilities, inventory and furniture. A reinforced surveillance is needed as well as establishment of strict rules regarding the disallowed and dangerous matters, as well as consumption of alcohol and cigarettes.

The NPM believes that the institution should establish a protocol for prevention of violence among the juveniles and it concluded that mandatory and timely interventions are needed from the instructors to prevent incidents and conflicts between the juveniles in the institution as well as registration of all the events of physical violence between the children. It also requires registration of the self-inflicted injuries.

The institution has adequately equipped infirmary that is used to treat diseases of the protégés and there is an employed nurse who is included in the education for healthy living skills as well as prevention of sexually transmitted diseases. The NPM requested that the nurse should be included in the preparation of the menu in the kitchen and to sign the two-week list. The management of the institution should undertake efforts for overcoming of the current situation of late delivery of the medical cards for health insurance to enable timely access to the healthcare services.

⁵⁰ The Ombudsman initiated a case for the described event identified by the NPM during the visit of the institution. They prepared information for the Ministry of Interior. The Ministry of Interior informed the Ombudsman that they have initiated a procedure for detailed investigation of the case.

The institution also has a shelter center for women-victims of domestic violence, as well as the Center for accommodation of internally displaced people. This might have negative influence over the educational and correctional treatment of the juveniles who have educational and social problems.

The concrete and detailed statements and recommendations are contained in the individual report for the visit submitted to the institution and the Ministry of Labor and Social Policy. According to the report submitted, the institution and the Ministry of Labor and Social Policy agree with the recommendations and informed the NPM that they agree and will act in line with implementation of the recommendations. The NPM will use the follow up visit of the institution to assess the degree of implementation of the recommendations.

G.2 Reception Center for Foreigners of the Ministry of Interior

According to the internal positive regulations, the Reception center for foreigners of the Ministry of Interior accommodates foreigners who are impossible to be sent away from the territory of the Republic of Macedonia within 24 hours, a foreigner who has been served with a decision for banishment of the country and is not in possession of valid travel document⁵¹, foreigner who has been served with the measure “detention of foreigner”⁵², unaccompanied foreign juveniles⁵³ and victims of human trafficking in the period of deciding for cooperation with the institutions of state persecution.⁵⁴ Appropriately, the foreign citizens can stay in the center pursuant the decision adopted by the Ministry of Interior or based on court decision.

The National preventive mechanism has inspected the accommodation capacities, the quarantine, the shared facilities, the toilets and showers, infirmary, storage room, the room for physical search, the duty office of the police officers and other facilities and it also had interviews with the management structures and the employees. During the visit there has been a confidential conversation with the only foreign citizen who was at the center. This person was satisfied with the behavior and treatment he received from the Reception center. This person had the essential assets for personal hygiene and did not have complaints regarding the food. The Ombudsman – NPM had meetings and interviews with several employees in the security service of the centers (police officers in uniforms) who at the moment of the visit were at work.

The NPM requested detailed and timely information for the house order in language that will be understood by the people, translation of the house order in several languages which are used by most of the accommodated foreign citizens.

In Pavilion 1 where the especially vulnerable categories of foreign citizens are accommodated the house orders were positioned in an appropriate place into English. The collective accommodation in the Pavilion the international standards for the people deprived of liberty are not met, because the area is smaller than 4m² per person in a room. It does not fulfill the right to privacy of the people. In that line, the NPM recommended decrease in the number of beds in the bigger bedrooms, especially in the Pavilion 1 bearing in mind the

⁵¹ Article 108 paragraph 1 and paragraph 2 of the Law on foreigners (Official Gazette of the Republic of Macedonia no. 35/2006, 66/2007, 118/2008, 92/2009, 156/2010, 158/2011, 84/2012)

⁵² Article 93 of the Law on misdemeanors (Official Gazette of the Republic of Macedonia no. 62/2006, 51/2011).

⁵³ Article 112 paragraph 2 of the Law on Foreigners

⁵⁴ Article 81 paragraph 2 of the Law on Foreigners

category of people who are accommodated in this pavilion and their vulnerability and special needs.

In the Pavilion 2 the rooms were in the process of reconstruction and they were equipped with new tiles, new ceiling with lightning system, some of the windows are replaced with new ones, and the walls were painted. Additionally, the NPM requested the Ministry of Interior to reconstruct the damaged toilets in the Pavilions. The NPM believes that the toilets should be locked until reconstructed because they pose risk for the health of the people and may appear as source of diseases.

The quarantine office does not have the beds fixed to the floor and the NPM believes that they do not meet the security standards. Depending on the psychological and physical condition, the accommodated person can be easily injured.

The primary healthcare is performed in the circle of the center and the patients have easy access to the doctor. The infirmary has a pharmacy where the drugs are appropriately stored and kept. However, the person to whom the NPM talked was not seen by a doctor after the admission to the center. The NPM believes that this situation is a mistake of the services having in mind that pursuant the existing regulations the person had to be seen by a doctor when admitted to the center. The NPM requested improvement of the healthcare within 24 hours after the admission in the center. The access to the ambulance register should be enabled only to the employed professionals, but not to the police officers in uniform.

In line with the prevention of torture and decrease of the risks from possible cruel or inhuman treatment the NPM asked for establishment of a written protocol for activities in cases of physical violence and incidents among the people accommodated in the reception center, as well as a separate register for use of force, no matter whether they are used by an official person employed in the Reception center or police officers from the Police station of general jurisdiction.

The daily log was assessed that it is regularly updated and events are registered. For part of the registration fluid corrector is used for deletion of the wrongly registered data and the NPM requested for separate forms for admission list and foreigner's chart pursuant Article 10 of the Rulebook on house orders.

The NPM sent a recommendation to the Ministry of Interior for amendment of several articles of the Rulebook of the House order the Reception center for foreigners and it requested development of programs for psychological and social aid, as well as programs for prevention of self-injuring. The NPM believes that the daily recreate activities of the people in the center should be increased as well as the number of employees in the center and inclusion of new professions.

The concrete and detailed conclusions and recommendations are contained in the individual report for the visit submitted to the Center and the Ministry of Interior. The response of the Center for foreigners informs the NPM that they agree and that they will act in line of improvement of the conditions. The Ministry of Interior informed the NPM that the reception center has increased the number of staff and works on preparation of a protocol for the behavior of the police officers in case of incidents between the people in the center. In the center there is already individual register for the use of force. The MiO responded that they have accepted and are implementing the proposals for amendments to the house order of the Reception center for foreigners which were proposed by the NPM.

G.3 Special institution Demir Kapija

The special institution in Demir Kapija pursuant to the valid positive legal regulation is an institution for accommodation of people who have mental retardation and provides accommodation, care, healthcare, rehabilitation, work and occupational therapy, in accordance with their capacities and health conditions.⁵⁵ The visit of the special institution in Demir Kapija was made by the NPM accompanied by an external collaborator – psychiatrist according to the Memorandum for cooperation signed between the Ombudsman of the Republic of Macedonia and the Association of Psychiatrists of the Republic of Macedonia.

The National Preventive Mechanism in the beginning of the visit talked to the principle and the management of the institution and afterwards, divided in two teams, inspected the accommodation capacities, the unit for work and occupational therapy, the kitchen and other auxiliary facilities. During the visit the NPM had interviews with most of the employees in the institution (nurses, defectologists, instructors, etc.), as well as with several people accommodated in the institution. At the same time the individual plans for work were reviewed, the medical files of several people accommodated in this institution and several other registers which are maintained in the institution.

During the visit of the institution the NPM did not encounter cases or complaints for possible torture or cruel treatment or punishment of the users of the institution. The material conditions and situations in the bigger part do not meet the minimal standards and there is reconstruction of the block A in line of improvement of the conditions for accommodation of the users. The facilities for accommodation during the visit were appropriately lightened and heated.

The NPM concluded that part of the accommodated people is included in the occupational and physical therapy which is given by appropriately educated profiles. There are positive changes regarding the regular and qualitative update of the documents, registries and files in the institution. The institution does not use physical immobilization of the users and during the visits there were no rooms or instruments for physical immobilization nor information for their existence.

The NPM concluded several negative conditions. They were worried about certain behavior that represents risk and might lead to degrading and/or inhuman treatment and requested the management of the institution to undertake concrete measures. The material conditions in the bigger part meet the minimal standards and there is an ongoing reconstruction of Block A in line of the improvement of the conditions for accommodation of the users. However, the bathrooms and the toilets were partially ruined and unadjusted for this category of people. Another concerning fact was that the material conditions in the outhouse where 51 people were accommodated.

The NPM was also concerned with the fact that the elevator in the new object was not working and accordingly, the access to the occupational therapy, physical therapy and the outdoor walking area were inaccessible for most of the people accommodated on the second floor of the object (movement disability). The NPM believes that in this manner the freedom of movement is restricted.

⁵⁵ Article 126 of the Law on social protection (Official Gazette of the Republic of Macedonia no. 79/2009, 36/2011, 51/2011 and 166/2012)

Furthermore, the NPM stated that there is lack of staff in the institution: general practitioner, neuro-psychiatrist, speech pathologist, social worker and other profiles, whereas the visits from the external collaborators (gynecologist, doctor in internal medicine and psychiatrist) are not on satisfactory level.

During the visit there was lack of food and food products and sometimes, the meals are not prepared in accordance with the regulated list of meals.

Especially concerning is the fact that when giving contraceptive pills no one asks or receives consent from the guardian or the user (if professionally competent) and the users are not always appropriately informed about the contraceptive pills that are administered to them.

As a result of the visit the Ombudsman – National Preventive Mechanism has prepared a separate report that states the positive and negative conditions and issued appropriate recommendations addressed to the Ministry of labor and social policy and the management of the institution in Demir Kapija in order to remove the identified disadvantages. The Special institution informed the NPM that they agree with the assessment and the recommendations. The NPM underlines the positive approach of the management of this institution that has prepared an Action plan for execution of the measures and removal of the disadvantages and irregularities. According to the plan, there is a person responsible for every recommendation, a date when the implementation should begin and the duration of the activities.

3. FOLLOW UP VISITS IN 2012

A. Follow up visits

In 2012 the National preventive mechanism started paying follow up visits in order to assess the level of implementation of the recommendations based on the previous visits of the places for deprivation of liberty. Follow up visits were paid to 5 police stations (PS Chair, PS Aerodrom, PS Drachevo, PS Gostivar and PS Kisela Voda) as well as to one penitentiary-correctional institution (Prison Skopje) and the Education-correctional institution Tetovo.

During the visit of **PS Chair** the National Preventive Mechanism stated that PS Chair is still using the same detention room. The police station will undertake efforts to paint the room and to put additional blankets but the inhuman and degrading accommodation conditions still exist.

During the follow up visit the NPM concluded that the old basement rooms are still unlocked and the police officers in PS Chair have access to them. PS Chair is still using the same toilets for both the officials and the people deprived of liberty. This police station does not have a separate toilet that will be used by the detainees and which will not have fragile objects which might pose risk of self-injury. The NPM concluded that this recommendation is partially implemented because there is a serious surveillance in case when the detainees use the toilet bearing in mind that longer and nightly detentions still occur (during the inspection of the registries it was concluded that there have been detentions longer than 12 hours). This leads to conclusion that the detainees have needs to use to toilets more frequently.

From the visit of the NPM in 2012 it can be concluded that the conditions of the facilities where the people are accommodated has not changed except in the part of the hygiene and the better surveillance performed by the services in this police station. During the inspection of 3 folders for the detainees it was concluded that this PS still has nightly detentions. However, they transfer part of the detainees to sleepover in PS Bit Pazar due to lack of conditions for detention in this station. In that line the NPM requested from the police station and from the Ministry of Interior to submit information whether the police station Chair will still be used as place of detention. The response was that it will not be used for detention of people because it does not meet the general norms and standards for the detention facilities. Regarding the remaining situations, PS Chair informed the NPM that measures have been undertaken.

During the visit of **PS Aerodrom** it was assessed that the recommendations were fully or partially implemented by PS Aerodrom and the detention office is now used as storage for the weapon. On the day of the visit the NPM concluded that there are teams that work on rearranging the room.

During the inspection of 6 folders of the detainees, it was assessed that this police stations does not have longer detentions and for nightly detentions, the detainees are transferred to PS Kisela Voda and PS Gazi Baba due the inexistence of conditions for detention in PS Aerodrom. The inspection in the files confirmed that all the files had the basic documents pursuant the standard operative procedures. However, the NPM during the follow up visit found lack of the logical flow of the events as well as lack of minutes for detainees, lack of presence of a doctor in case of visible injuries and visible signs of illness (disorders) as well

as case of detention of three people within a period of 8 hours in cases when in PS Aerodrom there was only one room for individual detention.

Upon the report for the follow up visit of PS Aerodrom the NPM was informed that the police station had a working meeting in order to overcome the disadvantages and to act upon the issued recommendations. At the same time, as in the case of the police station Chair, this police station – Department on internal affairs, Skopje submitted information that in future it will not be used for detention due to the lack of general norms and standards of the detention facilities.

NPM visited **PS Drachevo** in 2012 and concluded that this police station is still used to detain people in facilities which do not meet the minimal conditions in spite of the fact that there is a new manner of work of SVR Skopje which states that in part of the police stations on the territory of Skopje people will not be detained, including PS Drachevo. The inspection of the files showed that the entire necessary documents pursuant the standard operative procedures are present and the recommendation issued by the NPM in 2011 for the file to contain the minutes for advice on the rights, is implemented. At the same time, the errors regarding the inconsistency were corrected in the registries of daily events and registries of called, brought in or detained people. Furthermore, the NPM issued 4 recommendations to the police stations of general jurisdiction Drachevo as well as 1 recommendation to the Ministry of Interior.

The police station submitted a response that they will act according to the recommendations of the Ombudsman whereas regarding the detention of the people deprived of liberty the NPM was informed that the police station Drachevo, starting from 20.09.2012, is not detaining people and the files of the follow up visits are from before that date. The Ministry of Interior issued information that the facilities in PS Drachevo are not being used since the above-stated date when the Information was prepared by the Department of internal affairs.

The NPM emphasizes the **PS Gostivar** as a positive example. The visit paid by the NPM in 2012 shows that the conditions in which the people are detained fulfill the criteria for detention, except in the old room that is no longer used. During the inspection of the registries of daily events and for people whose freedom of movement is restricted, the NPM assessed that they are being kept in good order, and the data registered in these two registries are harmonized.

The inspection of 6 folders of the detainees showed that in this police station there is a significant improvement in the part of the police registration regarding the detainees. The NPM stated a great progress in the part of the registration of the detainees; all the inspected folders contained the basic documents and registries for detainees according to the standard operative procedures; all of them contained the minutes for detention and minutes for advice on the rights. Most of the cases have logical time flow of the events. Some of the cases which referred to detention of juveniles did not show going beyond the limits of 12 hours pursuant the positive legal regulations of the Republic of Macedonia. In three of the cases where the detainees were foreign citizens, the minutes did not show whether the diplomatic body was contacted for the country of origin of the person.

The Ombudsman – NPM concluded that a person who was under the influence of alcohol (2, 26% alcohol in the blood), although did not have visible injuries, was immediately taken to the medical center and a separate official note was made. The NPM underlines the praxis of keeping official notes for taking the detainee in front of the principle court.

Having in mind that in the toilets in the new detention facilities there were objects that could lead to injuries/self-injuries, the NPM requested from the Ministry of Interior to increase the safety and security measures in the toilets where only the detainees have access and to decrease the possibility of self-injury or injury of the people, by taking away the dangerous materials and subjects. The Ministry of Interior delivered a letter to the NPM to inform them that there have been directions to the PS's for removal of all the fragile objects from the toilets. At the same time, they informed the NPM that the old detention room is now used as storage for working materials. The NPM was informed that the new recommendations for PS Gostivar are now fully implemented.

The NPM paid a nightly unannounced follow up visit to **PS Kisela Voda** within the frames and competences which arise from the Optional protocol of the Convention against torture and other cruel and inhuman or degrading treatment or punishment and the Law on the Ombudsman. The visit paid by the NPM in 2012 shows that the conditions meet the minimal standards for detention. During the inspection of the registries on daily events and of the people whose freedom of movement is restricted, the NPM concluded that they are regularly updated and the data registered in these two registries are harmonized.

The registry of people whose freedom is restricted did not have the number of called, brought in or detained people on monthly base although this is an obligation pursuant the Standard operative procedures for detention of people.

The inspection of the three folders of detained people showed that this Police station of general jurisdiction has improved regarding the police registration of the detainees with a few exceptions. During the conversation with the officials of PSGJ of Kisela Voda, the NPM was informed that this police station always uses the new facilities for interrogation of the people deprived of liberty. This situation was directly evidenced by the NPM during the follow up visit. The search of the detainees is mostly made in the same facilities where the people receive advice on the rights in the police procedure. The rights of the people deprived of liberty were placed in front of the office of the head of shift where the admission is performed.

A negative example can be seen in the low degree of implementation of the recommendations in the prison Skopje and the Education-correctional institution Tetovo. The prison Skopje and the Directorate for execution of the sanctions did not implement most of the recommendations given by the Ombudsman – National Preventive Mechanism issued after the visit paid in July 2011. The NPM, during the follow up visit of the **prison Skopje**, stated that starting from 05.07.2012 the prison has an admission unit with a capacity of 14 people. During the inspection of this unit, the NPM concluded that the unit was reconstructed with the personal funds of the prison, without any help of the Directorate for execution of the sanctions. The bedrooms in this unit are not reconstructed and there were black traces of dampness on the walls.

The NPM concluded that two of the facilities have several uses and the people are accommodated there when separated for indefinite period of time (due to safety reasons) from the other people from the closed unit and people who are in the admission unit or the admission closed unit and people who due to non-payment of the monetary fee were served with a prison sentence according to the Criminal Code. In this manner the criminal is stimulated among different categories of convicted people who serve their prison sentence in these facilities. This is contrary to the process of re-socialization – the basic function of the PCI. The NPM is deeply concerned for the categories and accommodation of convicted

people in these two facilities. This accommodation violates the rights of the convicted people and they are under strict surveillance and have very limited freedom of movement. They are not allowed to do any productive activities.⁵⁶ In that line, the NPM requested that the Directorate of execution of the sanctions to perform surveillance of the execution of the prison sentence with a special emphasis on the material conditions, the accommodation and the accomplishment of the rights of people accommodated in these two facilities in order to undertake measures in line with the removal of the irregularities and risks. The Directorate of execution of sanctions delivered information that the surveillance is performed with a special emphasis on these two facilities and it was concluded that the conditions of the convicted people in these two facilities are completely inappropriate. Having in mind the conditions after the surveillance the management of the prison Skopje was asked to move the convicted people in other facilities. Furthermore, they asked the management to stop using the facilities which do not fulfill the criteria.⁵⁷

During the follow up visit 4 people were serving disciplinary penalty – solitary; they were placed by two in one room in the detention unit of the prison. The NPM encountered partially improved conditions in the rooms where the people were serving the penalty. None of the people who were in solitary complained about physical violence or ill-treatment from the prison services. Three persons confirmed that before being sent to solitary they were sent to the doctor for checkup, and one person said that he was not (however, during the inspection of the medical chart the NPM confirmed that this person was checked by a doctor because in the file there was a doctor's opinion).

The situation with the material conditions in the closed unit was assessed as worrying by the NPM. Regarding the last-year's conclusions there was no improvement; on the contrary, the NPM stated that the conditions got worse. The toilets were ruined and neglected; there was a very unpleasant smell of urine. In this unit, as well as in the other parts of the prison there is a lack of water (due to the problems with the sewage and the large consumption of water in this part of the municipality Shuto Orizari). This contributes to a very low level of hygiene in the unit which may lead to infectious diseases among the convicted people. The NPM was concerned about the lack of drinking water, especially having in mind the high summer temperatures. Furthermore, the response from the prison Skopje stated that the implementation of the recommendations mostly depends on the provision of additional financial assets whereas the obedience of the rights of the people deprived of freedom can be accomplished pursuant the legal acts.

The submitted response of the prison Skopje contained answers regarding the recommendations and some in some of them the management did not agree with the NPM. They explained that part of the remarks is about things which are already being implemented in this prison (the stay in open lasts 2 hours and there are sports and educative activities in the prison). Due to providing better protection and surveillance over the closed unit the management of the prison has physical presence from the representatives of the security sector (in the period between 22.00 – 08.00 hours) bearing in mind that the NPM team received serious complaints about the physical ill-treatment and forced work of part of the convicted people by the other convicted people accommodated in the prison unit.

⁵⁶ The prison Skopje answered that the accommodation in these two facilities is due to intolerance and existence of possible physical violence between certain convicted people.

⁵⁷ The Directorate for execution of sanctions was informed from the prison Skopje that they have acted upon the recommendations

The Directorate for execution of the sanctions submitted information that there is an ongoing fulfillment of the Project “Reconstruction of the penitentiary-correctional institutions in the Republic of Macedonia” which foresees construction of new objects in the prison Skopje. Thus, it is foreseen that the standards for accommodation of people deprived of liberty will be fulfilled.

During the follow up visit of the Educative-correctional institution Tetovo the National preventive mechanism concluded that the recommendations issued in 2011 are partially or not implemented at all. In 2011 the NPM underlined, as concerning, the situation in the unit with reinforced educational influence. In the report for 2011 it was assessed that the unit with reinforced educational influence does not meet the basic minimal preconditions and standards for accommodation, it does not have the appropriate size, there is no suitable daylight and ventilation and the room does not have the appropriate furniture. During the visit in 2012 the NPM concluded that the bedroom where previously the protégés were accommodated is now rearranged and is being used as shared room with benches, tables, television, but the people who are accommodated there sleep in extremely inhuman environment. Due to the conditions where the juveniles spend their time, the dirty rooms without sufficient inflow of daylight and air, as well as the insufficient number of the beds, the NPM concluded that the recommendations are not implemented.

During the visit in 2012 the National preventive mechanism met only the instructor that was in charge for the shift and authorized by the principle to perform the surveillance of the work in the Educative-Correctional institution Tetovo. The NPM underlined the importance of regular presence of the management of the educative-correctional institution bearing in mind that in this institution there are people of vulnerable and risk category who need to have unobstructed access if they want to directly address for help or fulfillment of a certain right, according to the House order and the Law on execution of the sanctions.

During the follow up visit were obtained complaints for physical ill-treatment over the protégés accommodated in the Unit with reinforced educative influence. The Ombudsman – NPM was concerned about the allegations, having in mind that during the previous visit of the Educative-correctional institution Tetovo most of the children who were accommodated in the Unit for reinforced educative influence complained about the inappropriate behavior of the security services and even complained for use of physical aggression.

The people who have inflicted self-injuries or at least tried to do so are sentenced to disciplinary measure – solitary. Starting from the human aspect and special care for the people who want to self-injure, the NPM is concerned about this praxis of the Educative-correctional institution and believes that these people require more intense surveillance and help from the doctor who needs to help them to overcome the phases of inflicting self-injuries instead of sending them to solitary and putting them in a worse position.

During the follow up visit the National preventive mechanism inspected the kitchen. The kitchen was messy with many insects near the dishes, as well the spices which are used for lunch. The lunch was prepared without sufficient amount of spices. The NPM stated that the situation of the kitchen and the food is much worse compared to the first visit when the hygiene was on satisfactory level and the inventory and the dishes were clean and were useful.

During the follow up visit the NPM concluded that the educative process is not being implemented in the Educative-correctional institution Tetovo. During their first visit it was concluded that the right to education is not fulfilled in manner as stipulated in the legal

regulations having in mind the fact that the primary and secondary education are mandatory. Especially concerning, regarding the education, is the remark of the services to the competent court bodies. Namely, during the inspection of the professional files it was noted that there was incredible information sent to the court for implementation of the educative process of the protégés in ECI Tetovo.

After the completion of the follow up visit the NPM submitted 9 recommendations to the educative-correctional institution as well as 4 recommendations to the Directorate for execution of the sanctions regarding the professional files and preparation of the reports to the court emphasizing the manner of informing about the implementation of the educational process. Upon the surveillance the Directorate for execution of the sanctions informed the NPM that the allegations are correct and that certain professional files contain information which wrongly informs the court regarding the educational process of the protégés in the ECI Tetovo.

Part of the delivered responses from the management of the ECI Tetovo confirmed the negative conditions with an explanation that this institution is trying to provide normal living conditions especially for the minors accommodated in the unit with reinforced influence, but the object does not meet the standards for accommodation of the juveniles who are sentenced with these measures. The juveniles in solitary receive reinforced surveillance and the children are daily visited by the doctor. There is reinforced surveillance for the people who inflict self-injuries. Regarding the complaints the NPM was informed that measures have been undertaken by the Educative-correctional institution Tetovo, as well as that there are appropriate remarks to the employees in the security sector.

Regarding the stated conditions the Directorate for execution of the sanctions stated that as the prison Skopje, this institution will also be part of the Project “Reconstruction of the penitentiary-correctional institutions in the Republic of Macedonia”. A new object will be built that will have accommodating capacities, kitchen, health unit, center for visits, workshops and classrooms.

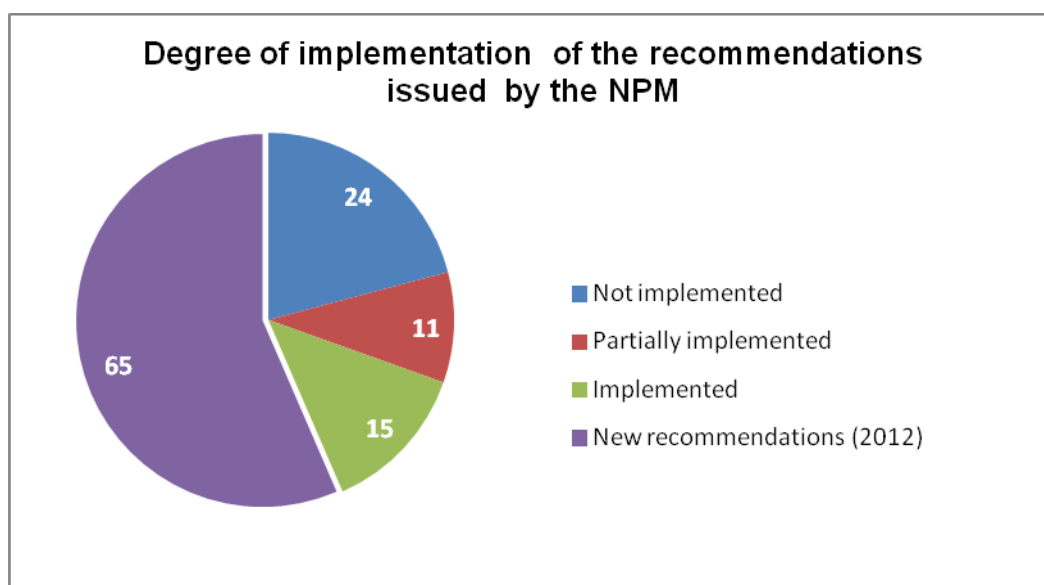
B. Degree of implementation of the issued recommendations

During the implementation of the follow up visits the NPM made a selection of the recommendations that were addressed to the bodies and institutions during the regular visits in 2011. The NPM believed that these recommendations will be implemented until the follow up visit. During the follow up visits not all the recommendations addressed to the places of deprivation of liberty were subject of assessment.

Beside the assessment of the degree of implementation of the recommendations from the previous separate reports, during the follow up visits the NPM appropriately addressed new recommendations (recommendations from 2012) in order to overcome or remove the identified risks and behaviors which may lead to torture or other cruel, inhuman or degrading treatment or punishment of the people deprived of liberty.

Table – degree of implementation of the recommendations:⁵⁸

Recomendations	PS Chair	PS Aerodrom	PS Drachevo	PS Gostivar	PS Kisela voda	Prison Skopje	ECI Tetovo
Not implemented	6	3	1	2	3	4	5
Partially implemented	3	1	0	1	1	3	2
Implemented	0	3	3	4	2	0	3
New recommendations	8	7	5	7	7	19	12



Conclusion: During the follow up visits of the places of deprivation of liberty the NPM concluded that most of the recommendations are not implemented or are partially implemented (35 recommendations) whereas only 15 recommendations have been fully implemented by the appropriate bodies, institutions and competent ministries. The NPM identified new risks and behaviors according to which upon the follow up visits addressed a total of 65 recommendations in order to overcome the newly stated disadvantages and the previously not implemented recommendations in order to protect the people deprived of liberty from torture or other cruel, inhuman or degrading treatment and increase of the degree of fulfillment of their rights.

4. OPINIONS AND INITIATIVES

⁵⁸ The table presents the degree of implementation of the recommendations by body/institution – all the recommendations are presented regarding the visit of the place of deprivation of liberty, no matter whether the recommendation is issued to the body/institution or the competent ministry.

A. Opinion submitted to the Ministry of Interior

In 2012 the Ombudsman acting as National Preventive Mechanism pursuant Article 19(c) of the Optional Protocol of the Convention against torture and other cruel, inhuman and degrading treatment or punishment, the Law on Ombudsman and the Rules of procedure of the Ombudsman submitted several opinions to the Ministry of Interior on amending and adding of the bylaws (rulebooks) and internal acts of this Ministry.

The Ombudsman, acting as National Preventive Mechanism, in March 2012 submitted an **Opinion** to the Ministry of Interior of the Republic of Macedonia in line of amending and adding to the ***Rulebook on general norms and standards that need to be obeyed in the facilities for detention of people in the police stations of general jurisdiction***. The Ombudsman – NPM expressed its satisfaction of the adoption of a Rulebook on the general norms and standards that need to be obeyed in the facilities for detention of people and believes that the unified norms for the facilities for detention of people in the police stations of general jurisdiction pursuant the established standards that respect the human rights, will significantly contribute to the decrease of the risks of possible torture and other cruel, inhuman or degrading treatment or punishment of the detainees. The opinion includes the minimal standards for accommodation of a detainee adopted by the European Committee on prevention of torture as well as positive examples and experiences of the countries in the region.

The National Preventive Mechanism believes that the detention should not be made in basement facilities or close to the storage rooms where the police's weapon is kept. The distance between the walls of the room should be at least 2m^{2,59} and the room needs to fulfill the necessary protection and safety measures. Special attention should be paid to the protective measures and the materials of which the toilets are made; there should not be any objects that would present danger for the health and life of the detainee and the police officers. Appropriately, the NPM believes that the toilet seat should be made of metal (as in the example of the new rooms in PS Tetovo), the container should be inserted in the wall and should work on a button (as in the example of the new facilities in PS Tetovo and PS Kisela Voda), the mirror should be inserted in the wall and made of an unbreakable material (as in the example of the new facilities in Kisela Voda), and the toilets should not have any other objects that would put at risk the health and the life of the person (metal bars, shower hose, etc.).

The detainment room should have a direct daylight as well as natural and artificial ventilation and heating, and to fulfill the necessary preconditions in order for the detainee to fulfill their right to night rest and to disable the video surveillance during the night hours. In each of the police stations of general jurisdiction the detainment rooms should have numbers, and the same rulebook should regulate the general norms and standards for the rooms for interview with the people deprived of liberty. The NPM believes that in this line for full accomplishment of the norms and standards of Rulebook in praxis, there should be clear deadlines for construction or re-adaptation of the detainment rooms and to foresee the budget implications.

The Ombudsman – National Preventive Mechanism based on the data gained after the 24 preventive (regular and follow up) visits for the negative conclusions and insights in the disadvantages in the behavior and respect of the rights of people deprived of liberty in August

⁵⁹ Having in mind the Recommendations of the European Committee on prevention of torture

2012 submitted an Opinion to the Ministry of Interior of the Republic of Macedonia for amendments and adding to:

- ***Rulebook on the manner of execution of the police works;***
- ***Rulebook on behavior of the police officers with temporary confiscated and round objects, and***
- ***Standard operative procedures for detention and behavior with the detainees***

The National preventive mechanism is the preparation of the proposal was led by the rights of the people deprived of liberty and the obligations which are contained in the Constitution of the Republic of Macedonia and the international documents of the domain of human rights ratified by the Republic of Macedonia. It mostly held to the European Convention on protection of the human rights (ECHR), the International pact for civil and political rights (ICCPR) and the UN Convention against torture and other cruel, inhuman or degrading treatment or punishment, as well as other international documents and standards which regulate in detail the behavior and accomplishment of the rights of the people deprived of liberty.

Regarding the ***Rulebook on the manner of execution of the police works***, the Ombudsman – National preventive mechanism (NPM) gave an opinion that there should be an authorized police officer – admission person for the people deprived of liberty and kept in the police stations instead of the head of the shift who according to the Law on police has other obligations related to the execution of the police authorizations. After 24 regular and follow up visits the Ombudsman concluded that the existing decision where the head of shift is appointed as admission police officer is not appropriate. The NPM for most of the cases, especially in those police stations which cover bigger territories and where the scope of police works is significant, concluded that the head of shift is not able to perform the obligations of an admission officer having in mind the safety of the person deprived of freedom and the fulfillment of their rights. In line with providing continuous and direct supervision of the detainees in the police station and their protection from risks upon their safety and complete fulfillment of their rights, as well as increase of the direct liability for behavior with this category of people, the NPM believes that the role of the admission police officers should be separated from the role of the head of shift. This role should be given only to an appropriately trained police officer who will work and act only with the people deprived of liberty and all the people who have restricted freedom of movement: people who were called or brought in (in the cases of juveniles), apprehended or detained in the police station.

The NPM requested that the interview with the apprehended and detained people should always be made in a special interrogation room in order to prevent torture and to increase the personal integrity of the people deprived of liberty instead of in the offices of the police officers and the inspectors. The NPM also pointed that additional regulation of the right to meal and access to drinking water is necessary for the period of detainment in the police station. Furthermore, the NPM requested that this Rulebook should be harmonized with the Provisions of the Law on juvenile justice. The interview with the juvenile should always be made by the police officer for juvenile delinquency without the presence of other police officers. At the same time, the juvenile should be detained in a juvenile detention room, as stipulated in Article 109 of the Law on juvenile justice.

The NPM believes that if the person, after the termination of the detention, is not taken before the investigative judge, should be informed that they have the right to see the investigative judge in the competent court and to interrogate the legality of this act, within 30 days since

they were let free. In case of detainment of a person under the influence of substances or alcohol the NPM requires mandatory checkup from a doctor who will confirm that the person can be placed in a detention room without risk of endangering the health and the life of that person.

The Ombudsman – National Preventive Mechanism concluded that there is a need for amendments or adding to the forms 7 (**Official note for apprehension of a person without a court order**) and 7-a (**Minutes for detention of a person**) from the Rulebook on the manner of execution of the police works.

The NPM requested that the form 7 (Official note for apprehension of a person without court order) to clearly state the place (address or location) of deprivation of liberty i.e. the place where the person was arrested, beside the date and time. The NPM believes that in this way a logical flow of the events would be provided – the time and place of apprehension would be clearly determined, as well as the time when the apprehended person was given to the admission police officer. In this manner there would be a clear determination of the time needed for transport of the person from the place where they were deprived of liberty to the organizational unit of MoI where the person was transferred to the admission officer. The NPM asked that instead of a note from the official person of the Ministry of Interior, this official note should offer detailed description of the event.

Furthermore, the NPM requested that the detention minutes (form 7-1) should also clearly state the date, time, street and place where the person was deprived of liberty and at the same time, the form should state the name and surname of the person/persons who take care of the fulfillment of the rights and the safety of the detainee during their placement in the police station. The NPM believes that the same form should contain the name and surname of the police officer who approved the detention.

The National Preventive Mechanism pointed that the Minutes for detention should be mandatory filled in the part for assessment of the physical and psychological state of the person. In that line, the admission officer, pursuant the concept of the minutes, will state the existence of visible injuries and visible signs of illness, mental disorders, alcohol in the blood or influence of substances. The NPM believes that the detention minutes (form 7-a) should mandatory include the obligation for the admission officer who will state that the person has visible signs of illness or will positively answer the question for a disease, if the person takes any drugs and the time interval for the administration of the drugs, as well as whether this person has the drugs within them and whether the person is under medical surveillance. If the answers are positive, then the admission officer must call a doctor.

Having in mind the different praxis in the way the form 7-a is filled (detention minutes) by the admission officers, the NPM requested from the Ministry of Interior to take manual filling for the form 7-a and unify the behavior of the admission police officers. This will disable the differences of the terms and the minutes and will decrease the risk of possible inappropriate, inhuman or degrading treatment with the detainees. The NPM requested that the manual should give clear directions in order to provide logical time flow of the events in order to provide that the maximum time limit for detention is respected (24 hours for an adult, 12 hours for a juvenile, starting from the moment of deprivation of liberty).

The Ombudsman – National Preventive Mechanism recommended the Ministry of Interior to have mandatory trainings for all the police officers for admission in line of their acknowledgment of the rights of the detainees and apprehended people, the obligations for their apprehension and detention, as well the management of the relevant forms (official

notes and minutes), in order to harmonize the behavior. The NPM believes that this liability stipulated in Article 10 of the UN Convention against torture and other cruel, inhuman or degrading treatment or punishment should be implemented on regular basis. It should include not only the admission officers, but also the other people who are in contact with the detainees pursuant to Article 25 paragraph 7 of the Rulebook for the manner of execution of the police works.

The NPM requested addition to the Rulebook regarding the adoption of new forms from the Ministry of Interior and asked for new forms to be introduced as it follows: *Official note for requested and given medical assistance of an apprehended or detained person/ Official note/minutes for fulfillment of the right to food and water/ Official note for direct surveillance over the detainee*. The NPM believes that by introducing these three forms the degree of respect for the rights of the people deprived of liberty will be increased.

The NPM believes that the Rulebook on the manner for execution of the police works⁶⁰ should additionally be reinforced with the system of adequate and effective measures in order to prevent the police officer of misuse of the weapon that is given to them for their official duties.⁶¹ The NPM reminded the Ministry of Interior for the ruling adopted by the European Court of Human Rights for the case of Sashko Georgiev against the Republic of Macedonia in the part that “the states are expected to have high professional standards within the frames of their systems for implementation of the law and to be secure that the people who work in these systems fulfill the necessary criteria (see, *mutatis mutandis*, Abdullah Yilma, quoted, paragraphs 56-57). Especially when the police forces are equipped with weapon, they should receive the necessary technical trainings and the selected agents who have the permit to carry weapon should be subject to a special control”.⁶²

In that line, and having in mind that the above stated ruling of the court found that the country has violated Article 2 of the ECHR (right to life) and having in mind that pursuant Article 31 of the Law on police the police officer is authorized to carry weapon, the NPM believes that additional preventive measures should be undertaken in order to:

- a) reinforce the system of regular control of the psychological and physical competences of the police officer
- b) establishment of a clear system for carrying weapon during and after the working hours
- c) establishment of a clear system for the maintenance of the weapon in the facilities of the police station

Regarding the ***Rulebook on behavior of the police stations with temporarily confiscated and found objects***, the NPM concluded that there is irregular behavior in the maintenance of the temporarily confiscated objects in the offices of the inspectors in several police stations. This presents risk for the safety and health of the detainees and apprehended people. The NPM believes that the obligation for putting these objects in an appropriate room should be respected by the police officers and these objects must not be kept in their offices. In that line, the NPM proposed that each temporarily confiscated object should be kept in an appropriately equipped room in the police station of general jurisdiction and should be appropriately registered and marked. The room where the objects are kept should not be near

⁶⁰ Amendments in Article 223-227 of the Rulebook

⁶¹ Sashko Georgiev against the Republic of Macedonia (appeal no. 49382/06) ruling of the ECHR, 19.04.2012

⁶² ⁶² Sashko Georgiev against the Republic of Macedonia (appeal no. 49382/06) ruling of the ECHR, 19.04.2012, paragraph 51.

the detention rooms or the interrogation rooms. Only the person liable for keeping and maintaining the registry of the temporarily confiscated objects should have access to the storage room for these objects. The temporarily confiscated weapon is kept locked in a separate metal safe that is in the room for these objects.

The NPM believes that the MoI should give directions and have trainings for the police officers who are responsible for the registration of the temporarily confiscated objects. This would unify the behavior and would decrease the risks of possible misuse of these objects in line of their possible use, opposite the objectives of the Convention against torture and other cruel, inhuman or degrading treatment or punishment.

The NPM gave its opinion for amending of the Standard operative procedures for detention and procedure for behavior with the detainees. This document should be amended by regulating the question for surveillance of the person while in the toilet, having in mind their safety and privacy. The right to privacy and dignity do not allow presence of police officers while the person is in toilet.

The NPM requested this document to clearly state that the search can be performed only by police officers of the same gender, and during the search they should pay attention to the personal integrity and privacy of the person. The NPM asks for the confiscated subjects of the detained person to be kept in a separate room that is under the surveillance of the admission officer while the person is in the detention room.

Furthermore, if the detainee is visibly injured or complains for injury or pain, a doctor must be called. If the detainee has physical injuries, an ambulance vehicle should be called. Until the ambulance vehicle arrives, the person should receive first aid from a trained police officer.

The National preventive mechanism believes that according to the principles for human behavior with the people deprived of liberty and the international right for human rights, the detainee has access to food and access to drinking water. NPM recommended that the right to food and water should be protected and regulated by law, together with the other rights that are guaranteed to the people deprived of liberty. The NPM believes that the food should be provided by the budget of the Ministry of Interior, and the MoI should have a special budget item for this issue.

The Ombudsman acting as National preventive mechanism believes that it is extremely significant and necessary to have regulated access to clean drinking water. The NPM requests that the MoI should provide a special budget that will meet this need by providing bottled water for the detainees in the police station.

Besides the remark for regulation of the issue of drinking water and food for the detainees, the NPM gave its opinion on the need of calling a doctor in case of detention of a person under the influence of alcohol or other psychotropic substances. The doctor needs to confirm that the person can be placed in a detention room without being at risk of the health and life.

It must be underlined that the rooms which have video surveillance for the detainees, appropriate information must be placed. The detainee must be informed about the video surveillance having in mind the home and international standards for protection of the personal data.

B. Opinion to the Ministry of Justice

Pursuant to Article 30 of the Law on Ombudsman and Article 19 of the Rules of procedure of the Ombudsman, and pursuant to the competences stipulated in Article 3 of the Law amending and adding to the Law on Ombudsman regarding Article 19(c) of the Optional Protocol to the Convention against torture and other cruel, inhuman or degrading treatment or punishment, the Ombudsman – National Preventive Mechanism submitted an *opinion* to the Ministry of Justice of the Republic of Macedonia regarding the *Draft Law on justice for children*.

The National Preventive Mechanism believes that this initiative will contribute to improvement of the quality of this law in line with the decrease of the risks of possible torture and other cruel, inhuman or degrading treatment with the children deprived of liberty. At the same time the Ombudsman – NPM believes that this Draft Law on justice for children should reinforce the mechanisms for protection and surveillance of the children deprived of liberty according to the Minimal standard rules of the UN for administration of the juvenile justice (Beijing rules)⁶³. Namely, Article 116 does not regulate the police officer who will execute the procedure with a child and their calling, bringing or detaining into the police station. This article only refers to the provisions of the Law on Police. The NPM states that this decision does not offer additional protection of the child in the procedure before the Ministry of Interior because the Law on police, although stipulates that the police competences towards the juveniles should be made only by trained officers, yet allows that in certain situations for all the other police officers to execute the competences regarding the children. This leaves space for wider interpretation of the words “certain situations” referred to in paragraph 2 Article 37 of the Law on police.

The NPM during its regular and follow up visits to the police stations of general jurisdiction who are competent for detainment of children assessed that a part of them do not have a special inspector for juvenile delinquency who is appropriately trained. Therefore, the NPM requires full implementation of this international-legal standard according to the Law on justice for children, having in mind the objective of this Law and that is harmonization with the international standards for improvement of the legislation for the children, improvement of the protection of the children’s rights.

In the Republic of Macedonia in several police station the interview with a child that is under the suspicion of doing a deed that is regulated as a criminal act is made by a police officer trained for behavior with juveniles in the presence of the police officer who works in the same domain. Only in several cases, the conversation is made by the police officer for behavior with juveniles without the presence of other officials. According to the analysis and the data that NPM had at its disposal this situation is a result of two reasons: not all the police stations have an inspector on juvenile delinquency and not all the police stations have material conditions which allow interview with a child without the presence of other officials. Namely, in most of the police stations the trained inspectors do not have an office but they share one with the police inspectors in general or economic criminal. Only one of 38 police stations of general jurisdiction which according to the Decision adopted by the Minister of

⁶³ art.12.1 of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules"), adopted by General Assembly resolution 40/33 of 29 November 1985

Interior have the competence for detainment, has a separate room for interview with a juvenile (PS Kisela Voda), and the other police station during the visit of the NPM the readjustment of a certain room that would be used for interviews with children was in progress (PS Debar). In that line the NPM believed that the bill should be amended because the conversation with the child should be made only by a police officer who is appropriately trained for that, and without the presence of other police officers.

The NPM requested a financial reconstruction for separate and equipped rooms for detainment of children in the police stations of general jurisdiction. According to the analysis of the preventive visits made by the NPM only 2 police stations (PS Veles and PS Kisela Voda) have equipped separate rooms for detainment of a juvenile, apart from the room for detainment of adults.

The NPM issued its opinion in the part of defining what the best interest is for the child. Based on the insights of the visits it is necessary to determine that “it is in the best interest of the child not to be permanently and continuously separated and lonely because it could influence its normal psychological and physical development”. The accommodation of the children in detention apart from the adults is an international and legal standard, as well as obligation that are stipulated on Article 10 of the International pact of civil and political rights. However, in certain situations when it is in the interest of the child the NPM thinks that there could be exceptions that refer only to daily and temporary contacts with carefully chosen younger adults. These exceptions refer only to the contacts and the inclusion in the shared activities, but no to the part of accommodation of the child.

The NPM believes that in long term the child’s deprivation of liberty, including the apprehension, should be made only in separate institutions for children deprived of liberty, that include trained staff and policies and practices which would focus their attention to the behavior with the children.

It should be underlined that the Ombudsman – National Preventive Mechanism did **not receive any feedback for its opinions submitted to the Ministry of Interior and Ministry of justice**. Thus, the Ombudsman – National Preventive Mechanism does not know what is the degree of consent and acceptance of the proposed amendments and additions.

C. Opinions to the bodies and institutions

The Ombudsman – National Preventive Mechanism pursuant to the conclusions in the reports asked for amendments in the Rulebook and the house orders in the Reception center for foreigners and amendment of the Rulebook on video surveillance in the prison Bitola.

The individual report of the Ombudsman – National Preventive Mechanism upon the visit in the Reception center for foreigners asked for amendments in the Rulebook and the house orders in the Reception center. The National Preventive Mechanism pointed that the mandatory medical checkup of the person upon the admission in the center to be executed within 24 hours after the admission. At the same time, the NPM asked for increase of the duration of the daily outdoor walk from one to two hours applying the same standard stipulated in the Law on execution of sanctions. Furthermore, the NPM requests for clear definition of the separate conditions under which the foreigner can use the telephone in the center as well as increase of the time of the visit to one hour. The NPM believes that the

isolation in a separate room should be regulated with the Law on police as means for use of force and this rulebook should additionally regulate the manner for use of the isolation.

In the request from the MoI to the Republic of Macedonia upon the report, the Ministry informed the Ombudsman – NPM that they have requested for an opinion from the competent services in the MoI asked to be informed to what level does the Ministry accepts the proposed amendments of the rulebook and house order. The NPM was informed that the proposed amendments for the rulebook and the house orders of the Reception center for foreigners are accepted and are being implemented.

The NPM submitted a request to the management of the prison Bitola to amend the Rulebook on the surveillance in order to exclude the sleeping rooms in the admission closed unit and the closed unit (Article 2 of the Rulebook). The principle of the PCI prison Bitola informed the NPM that there have been amendments and additions to the rulebook pursuant the request and the video cameras were removed from these two rooms for accommodation of convicted people.⁶⁴

⁶⁴ More on this request and the analysis of the conditions can be read in the part of description of the conditions encountered in the penitentiary-correctional institutions

5. MARGINALIZED AND VULNERABLE CATEGORIES OF PEOPLE IN THE PLACES OF DEPRIVATION OF FREEDOM

Roma deprived of liberty

Especially vulnerable is the situation and the conditions of the Roma people in the places of deprivation of liberty. During the visit of the closed unit in the prison Skopje the NPM, at their request, had interviews with four people representatives of the Roma ethnic community accommodated in the same room. During the conversation the NPM received serious complaints for physical ill-treatment. Moreover, according to their statements the other convicted people in the closed unit forced them to work. Namely, these people underlined that they perform the regular work for all the convicted people accommodated in this unit. The NPM believes that this situation, no matter whether voluntary or not, cannot be allowed and is contrary to the schedules prepared by the re-socialization center. Regarding the physical ill-treatment there was an evident fear among these people while they were talking privately to the representatives of the NPM and the constantly repeated that they fear revenge because they decided to talk about this problem. One of the persons complained that the day before the visit he was beaten and maltreated by the other convicted people (accommodated in the other room of the closed unit). Another person, although accommodated in the closed unit several days ago, complained that they were beaten and hit by other convicted people and had scratches on the back. While the interview was ongoing, several people tried to enter the room and to check whether the former ones are complaining for violence. This led the NPM to suspicion about future violence. The NPM believes that this happens to them because of their ethnicity i.e. because they are representatives of the Roma community.

In line with the preventive activities the NPM immediately called the competent official in order to discuss the problem and to find an appropriate solution.. Also, the NPM talked about this problem with two of the instructors (responsible for the closed and admission unit). One of the instructors confirmed that they found out about this situation on the same day when the convicted persons complained to the NPM and had already prepared an official note for the security service and request for transfer of the convicted people from the closed unit to another part of the prison.

The NPM requested all the prison services to work in coordination in order to timely remove the cases of ethnical, religious or other type of discrimination of a certain population in the prison and in line with prevention of the possible risks of torture or other cruel, inhuman or degrading treatment. The lack of preventive or reactive measures in the cases of violence between the convicted people from the prison services (passive prevention and/or lack of efficiency in protection) can reach the degree of violation of the right to protection of torture and other inhuman or degrading treatment which is protected in Article 3 of the European Convention on Human Rights.

The NPM recommended the management of the prison Skopje to establish a physical presence and surveillance of the security sector for 24 hours in order to decrease the possible risks of violence among the convicted people. However, this recommendation was only partially accepted by the management of the prison and they explained that there is a physical presence of a representative of the security sector in the period of 22.00 – 08.00 hours

whereas in the other part of the day the surveillance and control are performed over the regular, everyday activities.

During the visit of the prison Strumica the NPM had a conversation with a group of convicted people from the Roma ethnic community who complained to ill-treatment, as well as degrading from concrete people employed in the security service. In that line the NPM informed the management of the prison that there are complaints on physical ill-treatment from concrete employed people in the security service and the management informed that there has been already a disciplinary procedure against one of the officials due to allegations on physical ill-treatment whereas that for the other official there have never been any complaints. The principle informed the NPM team that whenever they receive this type of information they initiate investigation and procedure, but there is solidarity between the officials who usually perform this kind of physical ill-treatment out of the reach of the video cameras installed in the prison.

The NPM refers to the Committee's (CPT) recommendations that security sector is obliged to take care of the people, and this includes the liability to protect them from other convicted people who want to harm them. This problem requires that the prison staff should be on a level to perform its work and the tasks of supervision in an appropriate manner. The prison staff needs to react on the signs of trouble and to be appropriately trained in order to intervene when necessary.⁶⁵

The NPM assessed as especially vulnerable the situation with the Roma people accommodated in the school unit in PCI Idrizovo. The school unit is intended for convicted people who have not completed the primary and secondary education and a unit where they should complete the educational process. In praxis, this unit mostly accommodated the convicted representative of the Roma community.

During the conversations with the people in the school unit it was pointed out that the relation of the employees in the security sector was deemed as incorrect. In certain situations the former stated that they have been insulted by the employees in the security sector on ethnic base and because most of the people accommodated in this unit are users of social aid. The team of the NPM was a direct witness of incorrect behavior of one of the officials of the security sector.

The people consume the meals in the rooms where they sleep. The school unit does not have a separate living room, and the people spend most of the day in their bedrooms or the shared hall. Only one of 72 people who serve prison in the school unit had working engagement. These people spend most of the day in their rooms and the shared hall within the unit.

The NPM marks the accommodation and the condition of the Roma people in the school unit of PCI Idrizovo as degrading, bearing in mind that in the rooms and the hall where the people spend most of the day (22 hours) there is extreme lack of hygiene. There is overcrowding and the basic minimal standards for accommodations of people deprived of liberty are not fulfilled. The people deprived of liberty believe that the behavior of the employees in the security sector is incorrect due to their ethnicity.

⁶⁵ paragraph 27, Excerpt from the 11th General report (CPT/Inf(20017)16

Convicted people – narcotics abusers

During the visit of the penitentiary-correctional institutions the NPM concluded that most of them use the methadone therapy for the narcotics abusers, but none of the institutions undertakes other measures or implement programs in line of decrease of the damages.

Especially critical is the situation of the accommodation of the abusers of narcotics who serve prison in PCI Idrizovo – Skopje in the special methadone center with a professional team that is responsible for treatment and administration of therapy to 128 users of methadone therapy. The methadone users have special charts, and the people sign agreement in which they express consent for inclusion in the therapy and are obliged to have everyday control of the urine.

The NPM concluded that these people are being segregated from the remaining inmates because most of them are accommodated in the prison stationary. Although the stationary is foreseen for hospitalization of the inmates, the NPM assessed that most of the inmates there are those who use methadone therapy. Appropriately, the people accommodated there are not ill people who require medical care; on the contrary, they are separated and accommodated in a separate building because of their condition – narcotics abusers.

In that way there is a direct discrimination of this category of inmates and their segregation. They are in very unbeneficial position and they are accommodated in very bad conditions and separated from the other inmates only because of their health condition – users of methadone therapy. The NPM was concerned that the users of methadone therapy receive their medical treatment in very inappropriate conditions separated from the other inmates and accommodated in worse conditions compared to the other accommodating capacities. Pursuant to the recommendation no. R (98)73 of the Committee of Ministers of the Council of Europe to the member-states regarding the ethical and organizational aspects of the health care in the prison *“The care of prisoners with alcohol and drug-related problems needs to be developed further, taking into account in particular the services offered for drug addicts, as recommended by the Co-operation Group to Combat Drug Abuse and Illicit Trafficking in Drugs (Pompidou Group). Therefore, it is necessary to offer sufficient training to medical and prison personnel, and to improve co-operation with external counselling services, in order to ensure continuing followup therapy on discharge to the community”*.⁶⁶

⁶⁶ Recommendation No R (98) 7 concerning the ethical and organisational aspects of health care in prison

Convicted people with mental disorders

The condition of the convicted people (inmates) who suffer mental disorders is especially worrying in PCI Idrizovo Skopje. The NPM, with the external collaborator – psychiatrist, during their interviews with convicted people concluded that in PCI Idrizovo there are people with psychological difficulties who have problems with paranoid thinking. Part of them has partial incompetence and one of the people has been assessed with psychological problems since 2008.

For one of the persons who had suicidal intentions there was a clear notation of their disorder, the psychological findings and the measures which were undertaken in the medical chart. This person was issued with solitary confinement because of self-inflicted injuries and the doctor confirmed that the person can be placed in solitary. The NPM is concerned about the issuance of the measure of solitary confinement to a person that has dissocial disorder and a person that inflicts self-injuries. Although the chart shows that the person was daily checked by a doctor while in solitary, the NPM believes that the suicidal intentions should not be punished with a solitary, but these people should be under reinforced surveillance and psychiatric care.

The people with mental diseases are accommodated in several units in PCI Idrizovo in Skopje. The NPM reminded the management of the institution and the Directorate for execution of sanctions of the European Prison Rules *“Specialised prisons or sections under medical control shall be available for the observation and treatment of prisoners suffering from mental disorder or abnormality and special attention will be paid on prevention of suicides”*.⁶⁷ At the same time, the Recommendation R(98) 73 of the Committee of Ministers to the member states regarding the ethical and organizational aspect of the health care in the prison should be taken into consideration: *“In cases of convicted sex offenders, a psychiatric and psychological examination should be offered as well as appropriate treatment during their stay and after. Prisoners suffering from serious mental disturbance should be kept and cared for in a hospital facility which is adequately equipped and possesses appropriately trained staff. The decision to admit an inmate to a public hospital should be made by a psychiatrist, subject to authorization by the competent authorities.”*

The NPM unfortunately concluded that due to the inexistence of appropriate material and technical preconditions, Article 128 of the Law on execution of the sanctions is not being implemented as well as Article 31 of the Law on mental health i.e. when the inmates during their sentence will show signs of mental disease or mental disorder confirmed by a psychiatrist, the competent authorities for execution of the sanctions does not send them to an appropriate health institution for further care. These people, besides the remarks in the international documents and the existing internal legal framework, the serve prison in the regular units of PCI Idrizovo, Skopje and some of them are temporarily placed in the arrest unit located in the Clinic center in Skopje.

⁶⁷ Item 47.1 of the European Prison Rules

Convicted people with disability

Especially concerning was the situation in PCI Idrizovo where the people with disability are accommodated in extremely inhuman and degrading conditions. They are accommodated in worse conditions compared to the other inmates. The NPM believes that this situation can be a base for their discrimination due to inexistence of a factual unequal behavior leading to exposing these people in unjust, degrading and inhuman behavior compared to other people in similar situation.

The NPM was extremely concerned about the inappropriate relations of the services (security services, the instructor and the health service who are responsible for the open unit) who allowed a person with disability and amputated leg to be accommodated in a shared room in the unit without any preconditions for accommodation and living in prison conditions.⁶⁸ During the visit of the admission unit the NPM encountered a female inmate who has leg prosthesis and has a very limited individual movement, thus depends on the help of the remaining inmates. The NPM believes that this person does not have the necessary conditions for accommodation and live in PCI Idrizovo – Skopje.

This behavior and the lack of appropriate preventive measures is assessed by the NPM as degrading and inhuman and contrary to the liabilities stipulated in several international acts: the European Convention on Human Rights⁶⁹ and especially the Convention of the rights of people with disability: *“States Parties shall ensure that if persons with disabilities are deprived of their liberty through any process, they are, on an equal basis with others, entitled to guarantees in accordance with international human rights law and shall be treated in compliance with the objectives and principles of this Convention, including by provision of reasonable accommodation.* During the accommodation of the convicted people with disability, the NPM asks for obedience of the right to “reasonable adjustment” and this means necessary and appropriate modification and adjustment without causing inappropriate burden, if necessary, to provide the people with disabilities the same human rights and essential liberties on equal ground with the others.⁷⁰

People detained in police stations – alcohol abusers

The NPM concluded that in the cases when the detained people in the police stations show higher levels of alcohol in their blood, in some of the situations a doctor was not called by the head of the shift or another competent official, although in the detention minutes it was stated that the people showed visible signs of drunkenness. In one case, the detainee showed signs of visible drunkenness (high percentage of alcohol in the blood of 3,05%) however the official who signed the minutes made an assessment that a doctor was not needed (PS Kavadarci). In four of the folders for detainees in PS Delchevo it was assessed that the people

⁶⁸ This room was closed upon the request of the NPM.

⁶⁹ The NPM refers to the ruling of the European Court of Human Rights in the case D.G. v. Poland (no. 45705/07). The applicant who was in wheel chair and had several other health problems complained for the conditions in the prison which were inappropriate with their health. This person especially complained that the material conditions were not adjusted for people in wheel chairs. This caused serious problems regarding the access to the toilets, and had an additional problem with the overcrowding and sharing the room with smokers. The European Court of Human Rights ruled that there are violations in Article 3 of the Convention, especially bearing in mind the material conditions in the prison from the aspect of the special needs that this person had.

⁷⁰ Art. 14, para. 2 regarding Art. 2 – UN Convention for rights of people with disability, ratified in the Republic of Macedonia in December, 2012

were drunk in the limits of 1, 50% to 3, 30%; however, in none of these cases doctor was called by the head of shift although the detention minutes clearly showed that these people were drunk.

In certain police stations in cases of detention of people with visible injuries or high degree of alcohol doctor is called for prevention and they should assess the health condition of the detainee (example: PS Struga, PS Gjorche Petrov, and others). In one case of a detainee that had 1,76% alcohol, a doctor was called and minutes were made for the right to doctor and the registry for called, brought or detained people stated that the person fulfilled their right to medical care (PS Kratovo). In another case the NPM assessed that the person showed need of doctor due to existence of visible injuries and condition of drunkenness, so ambulance was called. This can be seen in the note that has the sign and seal of the doctor (PS Gevgelija).

The NPM believes that the police station must call a doctor when there is a high level of alcohol in the blood of the detainee, no matter whether this person requires medical health in order to act preventively for timely protection of the health of the person deprived of liberty. If the drunken person will not use the right to a doctor, this should be appropriately noted by the medical team and the police officers.

6. GENERAL RECOMMENDATIONS

The Ombudsman – National Preventive Mechanism, pursuant to its authorizations which are stipulated in the OPCAT and the Law on Ombudsman, after each visit submitted a separate report with a detailed analysis of the conditions and concrete measures for improvement of the disadvantages and removal of identified risks.. The recommendations contained in this annual report are general, according to the conditions and the trends encountered during the regular and follow up visits in 2012, in order to reach preventive actions of the competent state bodies.

Recommendations for improvement of the cooperation:

- The bodies and institutions should reinforce and deepen the cooperation with the Ombudsman – National Preventive Mechanism in the part of delivery of timely and qualitative responses in the separate reports.
- Increase of the degree of implementation of the recommendations of the National Preventive Mechanism addressed to the places of deprivation of liberty and competent ministries.
- The bodies of the state administration should deliver responses regarding the opinions and initiatives submitted by the NPM amending and adding to the legal framework which refers to the conditions, behavior and accomplishment of the rights of the people deprived of liberty.

Recommendations for the police stations:

- The timely and efficient investigation for the allegations and physical ill-treatment and impossibility to fulfill the rights in the police procedure by the people deprived of liberty.
- Continuation of the process of reconstruction of the detention facilities in the police stations according to the action framework in order to fulfill the minimal international standards for accommodation and protection of the people deprived of liberty.
- The old rooms which are not used in the police stations should be appropriately and visibly used for other intentions in order to avoid any type of misuse in the reactions of the people deprived of liberty.
- During the design and construction of the toilets in the new detention places the safety risks should be taken into consideration.
- Placing access ramps on the entrance in the police stations as well as the entrance in the detention rooms will show sensitive approach to the vulnerable categories of people as well as fulfillment of the provisions of the UN Convention on the rights of people with disabilities.

- The police stations that have been determined as detention places should be appropriately equipped with new transport vehicles which fulfill the safety measures for transfer of people deprived of liberty.
- The interview with the people deprived of liberty should be made in separate rooms in the police stations and that should be praxis especially in the places where new interrogation rooms have been constructed with video surveillance and other safety measures.
- Timely information and advice should be given to the people deprived of liberty, as well as fulfillment of the other rights when detained in police station, with a special emphasis on the fulfillment of the right to doctor of the people who have visible injuries or signs of illness, drunkenness or are under the influence of psychotropic substances. A doctor must be called, even in cases when the person does not require medical help, in order to provide prevention and protection of the health of the person deprived of liberty.
- The right to food and water should be regulated by law together with the remaining rights that are guaranteed to the people deprived of liberty, instead of being regulated with an internal act. The fulfillment of these rights should be noted by filling an official note.
- Fully detailed and timely filing of records regarding the arrested and detained persons, with a special emphasis on the Minutes of detention and the Minutes on advice and fulfillment of the right to defense and other rights. The logical flow of events should be taken into consideration, starting from the time of deprivation of liberty until the detention in the police station, in order to rightly assess the total duration of the deprivation of liberty.
- Unification of good practice in the way of keeping registers and records and treatment of persons deprived of their liberty at the territory of the Republic of Macedonia.

Recommendations for the penitentiary-correctional institutions

- The National preventive mechanism points to the need of creation of real conditions for full implementation of the European prison rules and other relevant international standards, as well as full implementation of the Law on execution of the sanctions into praxis.
- In order to prevent possible events of torture or other forms of cruel, inhuman or degrading treatment it is necessary to undertake measures for prevention of physical violence and infliction of self-injuries, as well as timely investigation of all the circumstances upon the individual complaints and event of violence of the detainees and inmates. The country must undertake serious and concrete measures in line of decrease of the impunity and assessment of the liability of the possible doers.

- The establishment of a system of continuous trainings of the employees in PCI, with an emphasis of the trainings for the employees in the security sector in line with professional, ethical and non-violent behavior with people deprived of liberty, obedience of the human rights and allowed use of force.
- Improvement of the material conditions for accommodation of the inmates and detainees with obedience of the minimal international recommendations and internal standards and decrease of the overcrowding in the penitentiary-correctional institutions.
- Establishment of admission units in all the penitentiary-correctional institutions which would be physically separated from the other units in order to enable qualitative process of admission and adjustment, as well to decrease the level of criminal during the admission.
- Providing continuous, qualitative and timely health protection through improvement of the access and the conditions of the treatment, and pursuant to the rules of the UN, to the European prison rules, recommendations of the Council of Europe and the recommendations of the World Health Organization.
- Providing qualitative and diverse meals for the detainees and convicted people that will meet the needs and the energy value of the meals foreseen by law. To establish a separate regime of meals (diets) for the ill people.
- To provide conditions for unobstructed completion of the primary and secondary education pursuant to the Law as well as establishment of programs for professional education of the inmates.
- Creation of necessary material preconditions in line with the motivation of the convicted people to increase their working engagements as a basic stimulator of the process of re-socialization because this represents basic function of the penitentiary-correctional institution.
- Respect for the international standards and recommendations in the domain of the conditions for accommodation and life of the inmates with special needs and establishment of the praxis of the principle of “reasonable adjustment”.
- Acting, treatment and accommodation of the inmates and apprehended people with mental disease pursuant the European prison rules, the recommendation R(98)73 of the Committee of ministers of the council of Europe and the Law on execution of sanctions.
- The right to outdoor stay should be fulfilled daily for all the categories of people, pursuant to the legal regulations.
- Increase of the number of employees in the penitentiary-correctional institutions pursuant to the acts of systematization, especially in the security sector, the re-socialization sector and the health-care sector.

- Registration of the people deprived of liberty especially in the part of filling of the registers which contain the application of the use of force, through mandatory registration of any use of the means of tying and separation.

Recommendations for the psychiatric hospitals:

- Improvement of the material conditions in line with meeting the standards: reconstruction of the old objects for accommodation, improvement of the toilets and bathrooms and adjustment for this category of people, providing new beds and mattresses for sleeping of each patient in the psychiatric hospital, as well as improvement of the heating and ventilation in the accommodation rooms.
- Decrease of the overcrowding in some of the units in the psychiatric hospitals, and the units for urgent psychiatry and the acute units, where only disturbed and violent patients should be accommodated, and not people with long-term chronic condition that are more stable.
- The psychiatric hospitals should be appropriately structured and equipped with staff that will meet the treatment, rehabilitation and care needs of the patients as well as implementation of continuous education of the medical and non-medical staff for human rights and human treatment with the people who have mental diseases.
- The Ministry of Health in coordination with the psychiatric hospitals should prepare information for the Ministry of Justice regarding: the application (or non-application) of the provisions in Article 59 of the Law on non-litigation procedure and implementation of Article 66 of the La on non-litigation procedure.
- Appropriate and correct application of the adopted protocols on mobilization of the patients: establishment of new facilities for mobilization that will meet the standards, timely registration of the physical immobilization and while one person is physical immobilized there should be no other people who are under surveillance but not immobilized.
- Obedience for the legal provisions in the part of providing consent from the person during their voluntary admission in the psychiatric hospital, as well as obedience of the legally regulated procedure for forced hospitalization.
- Continuous efforts for motivation of the patients in line with their inclusion in the occupation and working therapy.
- Improvement of the control of quality and quantity of the food in order for the patients in the psychiatric hospitals to receive appropriate meals with the necessary energy values.

Recommendations for the other visited places:

- Improvement of the conditions for accommodation in the Reception center for foreigners of the Ministry of Interior, providing more qualitative and timely health care, keeping appropriate data according to the law and house order, and especially regarding the registry for use of force, implementation of a written protocol of acting in case of physical violence and incidents among the people in the reception center, as well as timely and appropriate information of the foreigners for their rights and conditions of the accommodation by providing information in the house order in a legible language.
- Reconstruction, maintenance and regular heating of the rooms and stay in the PI for care of children with social and educational problems “Skopje”, mandatory undertaking of all the legal measures in the cases of activities which have elements of criminal act and mandatory investigation and interrogation for every complaint filed by the juveniles for physical and sexual abuse. This should be done in order to initiate an appropriate procedure and liability. The NPM requests that this institution should receive only juveniles who have educational and social problems, but not and juveniles who made actions with elements of crime, in order to overcome the possible negative influence for future criminal deeds.
- Improvement of the material conditions for accommodation of people with obstacles in the intellectual development in the special institution in Demir Kapija, providing unobstructed access of the users to all the objects and services of the institution, by reasonable adjustment. When administering contraceptive means to the users, consent from the guardian or the user is necessary. The NPM requested increase of the organizational activities outside the institution in order to include the users into the community, as well as the process of de-institutionalization to be made according to the principles and goals of the National strategy for de-institutionalization (2008-2018) by continuous decrease of the users of this institution.

- **Annex 1: Overview of the activities of the National Preventive Mechanism in 2012**

	Preventive visits
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Date	Place	Activity	Participants	Organizer
06.02.2012	Skopje	NPM visit – public institution for care of children with social problems – Skopje	two counselors of the NPM	NPM
13-15.02.2012	Skopje	Trilateral meeting of the NPM Slovenia, Albania and Macedonia	three counselors of the NPM, representatives NPM Slovenia and NPM Albania	The NPM in cooperation with Council of Europe
14.02.2012	Skopje	NPM Visit – Police Station Karposh	three counselors in the NPM, NPM Slovenia and NPM Albania	NPM
24.02.2012	Skopje	NPM visit – Police station Centar	two counselors in the NPM	NPM
28.02.2012	Sveti Nikole	NPM Visit – Police station Sveti Nikole	two counselors in the NPM	NPM
20-21.03.2012	Geneva, Switzerland	Thematic workshop: “Monitoring for the risk of ill-treatment or torture during the immigration removal process – key issues facing the NPM’s”	Anica Tomshikj – Stojkovska	Council of Europe European NPM Project
20.03.2012	Radovish	NPM Visit – Police Station Radovish	two counselors in the NPM	NPM
05.04.2012	Struga	NPM Visit – PCI of open type Struga	three counselors of NPM	NPM
10.04.2012	Skopje	Presentation of the role and the work in front of the representatives of the Ombudsman from Montenegro	NP and three counselors of the NPM	NPM
19.04.2012	Strumica	NPM Visit – Prison Strumica	three counselors in the NPM	NPM
23-24.04.2012	Skopje	Working visit of the Spanish NPM to Macedonia	three counselors of the NPM	Twinning project in cooperation with the Ombudsman in Macedonia
23.04.2012	Kavadarci	NPM Visit – Police Station Kavadarci	two counselors of the NPM, two counselors from the Spanish Ombudsman	NPM
30.04.2012	Kratovo	NPM Visit – Police Station Kratovo	two counselors of the NPM	NPM

03.05.2012	Tetovo	NPM Visit – Prison Tetovo	three counselors of the NPM	NPM
22-23.05.2012	Shtip	NPM Visit – PCI Shtip	three counselors of the NPM	NPM
30.05.2012	Skopje	Presentation of the Annual Report of the NPM, 2011	The Ombudsman and three counselors of the NPM	NPM
31.05.2012	Debar	NPM Visit – Police station Debar	three counselors of the NPM	NPM
05-07.06.2012	Tirana, Albania	Trilateral meeting of the NPM Slovenia, Albania and Macedonia and visit to the Psychiatry clinic	Donche Boshkovski	Ombudsman of the Republic of Albania in cooperation with the Council of Europe
11-15.06.2012	Madrid, Spain	study visit of the NPM of Spain, visit to a police station, center for juvenile delinquency and prison	Merita Aliu – Alili	Twinning project in cooperation with the Ombudsman of the Kingdom of Spain
12-13.06.2012	Belgrade, Serbia	Thematic meeting: “Illegal immigrants, Frontex and the role of the NPM”	Donche Boshkovski	Council of Europe European NPM Project
26.06.2012	Gevgelija	NPM Visit to the Police Station – Gevgelija	two counselors of the NPM	NPM
28.06.2012	Delchevo	NPM Visit Police station – Delchevo	three counselors of the NPM	NPM
05.07.2012	Skopje	NPM follow up visit – police station Chair	two counselors of the NPM	NPM
06.07.2012	Skopje	NPM follow up visit – police station Aerodrom	two counselors of the NPM	NPM
12.07.2012	Skopje	NPM follow up visit – prison Skopje	three counselors of the NPM	NPM
19.07.2012	Skopje	NPM Visit – Police station Gjorche Petrov	three counselors of the NPM	NPM
26.07.2012	Skopje	NPM Visit – Admission center for foreigners	three counselors of the NPM	NPM
29.08.2012	Struga	NPM visit – police station Struga	two counselors of the NPM	NPM
13.09.2012	Skopje	NPM follow up visit – police station Drachevo	two counselors of the NPM	NPM
14.09.2012	Veles	NPM follow up visit – Educational-correctional institution Tetovo	three counselors of the NPM	NPM
18.09.2012	Gostivar	NPM follow up visit – police station Gostivar	two counselors of the NPM	NPM
18-20.09.2012	Paris, France	Training: Dealing of the mediators and the Ombudsman with the phenomenon on migration	Anica Tomshikj – Stojkovska	Association of Ombudsmen’s of the Mediterranean

19-20.09.2012	Skopje	Working visit of the Spanish NPM to the NPM of Macedonia	two counselors of the NPM	Twinning project in cooperation with the Republic of Macedonia
24.09.2012	Skopje	Memorandum between the Ombudsman of the Republic of Macedonia and the Association of psychiatrists of the Republic of Macedonia	/	/
01.10.2012	Prilep	NPM Visit – Prison Prilep	three counselors of the NPM	NPM
03-04.10.2012	Skopje	Conference: National institutions for human rights and promotion and protection of the human rights in Macedonia and Western Balkans	Ombudsman Ixhet Memeti, Anica Tomsikj – Stojkovska and Donche Boshkovski	NGO Studiorum
12.10.2012	Skopje	NPM Visit – Police station Gazi Baba	three counselors of the NPM	NPM
18.10.2012	Bitola	NPM Visit – prison Bitola	three counselors of the NPM	NPM
30 и 31.10 и 01.11.2012	Skopje	NPM Visit – PCI Idrizovo	three counselors of the NPM + psychiatrist	NPM
05.11.2012	Skopje	Round table: the situations with the human rights in the institutions for deprivation of liberty – one year since the establishment of the NPM	Anica Tomsikj – Stojkovska and Donche Boshkovski	Helsinki committee on human rights in the Republic of Macedonia
08-09.11.2012	Skopje	NPM Visit – Psychiatric hospital Skopje	three counselors + psychiatrist	NPM
20.11.2012	Demir Hisar	NPM Visit – Psychiatric hospital Demir Hisar	three counselors + psychiatrist	NPM
27.11.2012	Negorci, Gevgelija	NPM Visit psychiatric hospital Negorci, Gevgelija	three counselors + psychiatrist	NPM
06.12.2012	Skopje	NPM follow up visit police station Kisela Voda	two counselors of the NPM	NPM
20.12.2012	Demir Kapija	NPM Visit – Special institution Demir Hisar	three counselors + psychiatrist	NPM

Annex 2: Selection of images from the visits completed in 2012 – positive and negative examples

Positive examples



Photo: semi-open and open unit in the prison in Prilep



Photo: Detention facility and room for interview with detained and apprehended people in PS Karposh

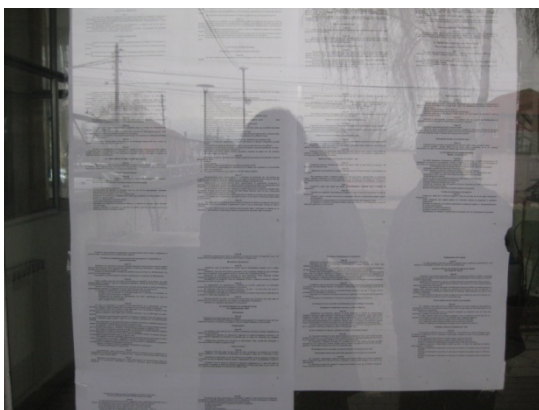


Photo: The new house rules for the convicted people publicly placed on an available place in PCI Struga, thus enabling an easy access to the inmates regarding their rights and obligations



Photo: Ambulance, room for medical checkup and dentist's office in PCI Shtip



Photo: Reconstructed toilet in the unit for treatment of abusers of narcotics and alcohol and the new dining room in the Psychiatric hospital Negorci



Photo: Classroom in the public institution for care of children with educational and social problems – Skopje

Negative examples



Photo: Facilities for collective accommodation of inmates in the open unit in PCI Idrizovo – Skopje. (closed after the intervention of the NPM)



Photo: Room for accommodation in the closed unit in PCI Prison Skopje and overcrowded room in the semi-open unit in PCI Strumica

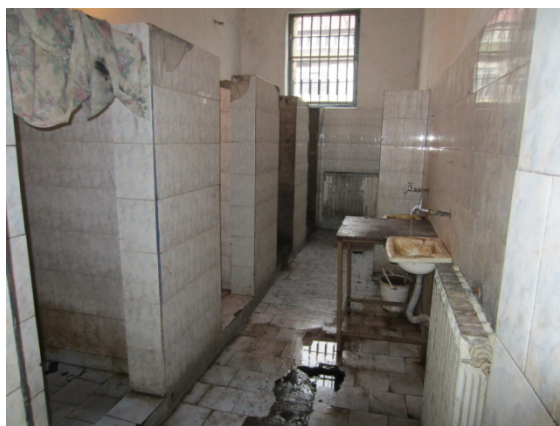


photo: room for accommodation of juveniles in ECI Tetovo and shared bathroom in the stationary in Idrizovo – Skopje



Photo: basement facilities for detention in PS Kavadarci and PS Delchevo which do not meet the minimal standards



Photo: Disobedience of the right to privacy – the toilet for detainees in PS Kratovo, located in a small hall; through a small opening on the metal door the officials have a direct view on the toilet in the solitary in PCI Struga



Photo: Bedroom for patients in the chronic unit and partially destroyed toilet in the unit for psycho-geriatrics unadjusted to the needs of the patients – Psychiatric hospital Skopje