



Montenegro

**PROTECTOR OF HUMAN RIGHTS AND  
FREEDOMS OF MONTENEGRO**



## **NATIONAL PREVENTIVE MECHANISM REPORT FOR 2016**

Podgorica, June 2017



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## INTRODUCTION

Article 81 of the Constitution of Montenegro (Official Gazette of RMNE, 66/06) sets forth that the Ombudsman is an independent authority, undertaking measures to protect human rights and freedoms. The Ombudsman performs its functions pursuant to the Constitution, laws and ratified international treaties, while adhering to the principles of justice and fairness.

The Law on the Ombudsman<sup>1</sup> (Article 25), which came into force on 23 August 2011, established the Ombudsman as the National Preventive Mechanism against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter referred to as the “NPM”).

The Law Amending the Law on the Ombudsman<sup>2</sup> amended the abovementioned Article 25 and designated the Ombudsman to perform the tasks of the National Preventive Mechanism for the Protection of Persons Deprived of their Liberty against Torture and Other Cruel, Inhuman or Degrading Treatment, in line with the Law and the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

The National Preventive Mechanism (NPM) undertakes measures to prevent torture and other cruel, inhuman or degrading treatment or punishment by means of conducting regular and follow-up visits of the places which host or may host persons deprived of their liberty or persons whose movement has been restricted by means of decision of a court or another state authority.

The working conditions related to the prevention of torture improved during the reporting year. Adequate working conditions and means for work were provided and human resources were enhanced.

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<sup>1</sup> Throughout this Report, the masculine terms used to denote physical persons include the feminine forms of those terms.

<sup>2</sup> Official Gazette of Montenegro 32/2014.

According to the annual plan of visits for 2016, the Ombudsman, in its capacity as NPM, conducted in total 23 visits to the authorities, organisations and institutions hosting persons deprived of their liberty or persons whose movement was restricted; 5 of the visits were regular and 18 were follow-up ones.

The Ombudsman, in its capacity as NPM, noted that, in contrast with the previous reporting periods, the conditions were in place to expand the scope of its activities; consequently, two thematic visits were conducted to the Institution for the Enforcement of Criminal Sanctions (ZIKS). The visits addressed availability of secondary and tertiary health care to the persons deprived of their liberty and the penological treatment of the inmates. The decision to review such important segments of treatment of inmates was prompted by the numerous complaints filed and the remarks suggesting long waiting times for specialist appointments shared by the inmates and NGO activists, as well as the statistics indicating a large number of repeated offenders among the inmate population.

This reporting period also featured good co-operation with the officials during all of the visits – NPM team members had unrestricted access to all official premises and documentation and were enabled to have undisturbed confidential interviews with all the persons they had expressed interest in interviewing.

In the Special Report on the state of the Police Directorate custody facilities and the Report on the Police Directorate follow-up actions on the Ombudsman's recommendations, included in the Special Report and the 2011 Ombudsman's Annual Performance Report, the Ombudsman stated that some of the custody facilities did not meet the requirements from the Rulebook on the compulsory requirements for custody facilities, which was applicable at the time.<sup>3</sup> However, rather than follow-up on the Ombudsman's recommendation and align the facilities with the CPT standards, the Ministry of Interior adopted the new Rulebook in 2012<sup>4</sup>, which aligned the regulation with the situation on the ground. In relation to this, the Ombudsman submitted the Initiative to amend Article 2 of the Rulebook.

In December 2015, the UN Standard Minimum Rules for the Treatment of Prisoners, dubbed as the "Mandela Rules" were revised; the document was subsequently translated into our language during the reporting period and is attached to this Report.

## **II. WORKING CONDITIONS**

The public announcement to fill the vacant position of Ombudsman's Advisor on the prevention of torture was launched in 2016 (the requirements included five years of work experience and at least one year of experience in the field of human rights). In the second quarter of 2016, this position was filled.

In addition to addressing staffing issues, a tender procedure took place and a new vehicle was purchased, intended solely for the work of the NPM.

Specific premises were secured for the work of the NPM during the reporting year. Prior to that, the NPM used to share work premises with the other sectors of the Ombudsman Office; this was inadequate, given the need for confidential planning and implementation of the specific activities carried out by the NPM.

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<sup>3</sup> Official Gazette of RMNE 57/06.

<sup>4</sup> Official Gazette of Montenegro 52/12.

### III. METHODOLOGY OF WORK

The NPM performs its preventative function by conducting visits to prisons and other places which host or may host persons deprived of their liberty; it also checks the treatment of persons deprived of their liberty and the overall quality of life in the institutions. By means of unannounced, announced, regular, emergency and follow-up visits, the NPM takes stock of the situation at hand and gives recommendations aimed at improving the overall conditions and treatment of these persons and preventing torture and other cruel, inhuman or degrading treatment or punishment.

During the reporting year, the NPM implemented the activities included in its annual work plan and assigned specific roles to individual team members for each type of visit. During the preparatory stage of the visit, the necessary documentation was obtained and each team member assigned specific tasks.

The checklists, used as monitoring tools, were revised and improved; questionnaires were developed for different types of institutions. These important tools are subject to constant upgrading, relying on the experience and observations generated in the previous reporting period, in collaboration with the Working Body members for each individual institution. Each visit is planned and structured to detail (most of the visits are unannounced).

The abovementioned improvements were supported by the continuous training provided to the expert team and by the exchange of experience and good practices within the South-East Europe NPM Network.

The multidisciplinary team (legal professionals, psychologists, penologists, psychiatrists, forensics experts etc.) contributed to greater effectiveness of the visits and interviews with the persons deprived of their liberty and with the officials; it also helped ensure that the NPM team gained as comprehensive an insight as possible into the status and treatment of this category of persons.

Following a visit, the management of the given institution is notified of the irregularities which can and need to be remedied immediately. Detailed data processing, analysis of the situation observed and comparisons with prior situations noted at the specific institution take place; in addition, a report is drawn up on the status of human rights in the given institution and the degree of compliance with the previously issued recommendations.

### IV. IMPLEMENTED ACTIVITIES

In line with the plan of activities for 2016, the NPM conducted 23 visits - 5 (five) regular and 18 follow-up ones - of the authorities, organisations and institutions which hosted persons deprived of their liberty or persons whose movement had been restricted. All of the visits, except one, were unannounced. The visits took place on working days and during holidays, within and after the working hours.

#### ***The regular visits covered the following:***

Organisational units of the Ministry of Interior – Police Directorate:

- Regional Police Units in Podgorica and Niksic and Local Police Unit in Pluzine;

Organisational units of the Institution for the Enforcement of Criminal Sanctions (ZIKS):

- Health-Care Service and Institution for Sentenced Prisoners (closed section).

#### ***The follow-up visits covered the following:***

Organisational units of the Ministry of Interior – Police Directorate:

- Regional Police Units in Berane, Bijelo Polje, Bar, Budva, Herceg Novi, Pljevlja and Local Police Units in Kolasin, Mojkovac, Plav, Rozaje, Cetinje, Danilovgrad, Ulcinj, Kotor, Tivat and Zabljak;

Public institutions:

- “Bijelo Polje” Home for the Elderly in Bijelo Polje, and
- Special Psychiatric Hospital in Kotor.

## **A. REGULAR VISITS**

### **4.1. Police custody facilities**

#### **4.1.1. Podgorica Regional Police Unit**

Information about the visit

Institution: Podgorica Regional Police Unit

Type of visit: Regular visit according to the Montenegrin NPM plan of visits for 2016;

Purpose of visit: Prevention of torture and situation assessment;

Date: 23 November 2016<sup>5</sup>;

Announcement: The visit was announced;

Composition of the team:

Mr. Dragan Radovic, Ombudsman Advisor, Team Leader;

Ms. Zdenka Perovic, Deputy Ombudsman;

Ms. Danijela Brajkovic, Ombudsman Advisor;

Mr. Milan Radovic, Working Body member, sociologist.

The visit also involved: Mr. Ivan Selih, EU expert; Ms. Angela Longo, Human Rights Advisor at the EU DG Enlargement; Ms. Barbara Rotovnik, European Commission representative; Ms. Milana Bojovic, PR Officer at the Ombudsman Office.

During the reporting period, the NPM also conducted four unannounced visits to the Podgorica Regional Police Unit (during the night on 26 July 2016, 01 Sept 2016, 01 Oct 2016 and 17 Oct 2016).

### **Background information**

The job scheme regulation for the Podgorica Regional Police Unit includes in total 530 work positions. At the time, the Unit had 450 staff members working there - 418 men and 32 women.

The work in the detention unit is organised in 12-hour shifts of three police officers. They are responsible solely for the police custody facility.

The work premises used by the police officers provide adequate working conditions-they include work areas, common areas, sanitary areas, and air-conditioning is provided throughout; there are no separate changing rooms, though.

Both entrances to the building enable adequate access to persons in wheelchairs.

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<sup>5</sup>This visit was particularly reviewed, since it involved EU experts.



The custody facility – detention unit of the Police Station of the Podgorica Regional Police Unit are used, as required, by other regional and local police units when their own capacities are insufficient. Besides, given the inadequate premises at the Kolasin Local Police Unit, some persons were held in police custody at the Podgorica Regional Unit.

## **Course of the visit**

### **Stage I: Discussion with the Regional Police Unit management**

The visits started with a conversation with the Head of the Unit and his assistants. The NPM mandate and visit plan were presented; the discussion addressed the issues of police treatment of persons held in police custody or deprived of their liberty.

### **Stage II: Tour of the Regional Police Unit**

The tour included the custody facility, vehicles used to transport persons deprived of their liberty and interrogation rooms.

### **Stage III: Discussion with the persons held in custody and persons deprived of their liberty**

At the time of the visit, two persons were found in police custody. Confidential interviews were conducted with them, without the presence of any officials.

### **Stage IV: Discussion with the officials**

In the course of the discussion, the present police officers briefed the NPM on the method of work and treatment and the problems encountered in their work.

### **Stage V: Inspection of documentation**

Documentation was inspected, as well as registers of persons deprived of their liberty, persons held in police custody and persons summoned for interviews in the capacity of members of the public.

### **Stage VI: Concluding discussion with the management**

At the end of the visit, another discussion was organised with the Police Unit management. The Team Leader presented the initial observations concerning the visit, the elements which might indicate potential ill-treatment or torture, as well as some deficiencies that could be promptly remedied.

## **Treatment of persons deprived of their liberty**

During the visit, two (male) persons were found on site. The NPM team introduced themselves and explained the mandate of the mechanism, purpose of the visit and confidential nature of the interviews with them. Both persons were interviewed. They stated they had no objections to the treatment by the police officers. When asked whether they were able to notify a third party of their choice of their deprivation of liberty, they gave affirmative answers. Both persons stated that the police officers in custody unit treated them fairly and that they had been given a meal. Inspection of the custody log, namely the forms (OBR1 and OBR2), confirmed that the entered time of deprivation of liberty matched the persons' statements, that the log included entries concerning information of the right to a lawyer and the provision of meals. At the time of the visit, the persons had copies of the information sheets with them, and the custody log included their

signatures in the boxes certifying that they had been informed of their rights (the note confirming that the person has been informed of his/her rights is entered in the custody log).

During the visit which took place on 26 July 2016, one (male) person was found in police custody. He had a copy of the information sheet issued to persons held in custody with him. When asked by the NPM team, this person stated that he had been treated professionally by the police officers, that he had been given the opportunity to notify a third party of his choice and that he had been informed of his right to hire a lawyer.

During the visit which took place on 17 October 2016, 21 persons were found at the custody facility. They could all show their copies of the information sheets; they stated they had been informed of their rights, that all that was covered in the information sheet had been provided to them and that they had no objections to the treatment by the police officers at the Regional Police Unit.

During the visits which took place on 01 September and 01 October 2016, no persons were found in the custody facility.

#### **4.1.1.1. Material conditions**

##### **a) Police custody facilities**

Podgorica Regional Police Unit has 10 custody cells with 16 beds. All of the cells meet the European Committee for the Prevention of Torture (CPT) standards concerning floor space and dimensions. The Unit also has designated custody cells for specific vulnerable categories, namely juveniles, women and persons with disabilities.

##### **b) Availability of beds and bedding**

All of the cells had fixed wooden beds and tables, mattresses and adequate bedding.

##### **c) Lighting, ventilation and heating**

Artificial lighting worked in all of the cells except Cell Number 1, where two of the five light bulbs were out. Heating and ventilation were available. There were no conditions in place for the persons held in custody to exercise their right to a walk in fresh air. There was no natural ventilation.

##### **d) Hygiene and sanitary facility**

According to the inputs received from police officers, the Ministry of Interior had signed a contract with a private company for regular maintenance and hygiene of the custody facility. However, at the time of the visit, the level of hygiene was not commendable.

The Police Unit has two physically separated sanitary facilities, designated for men and women respectively. One of the women's toilets has been adjusted to be used by persons with disabilities. In addition to the necessary fixtures, the toilets include showers.

The artificial lighting in the toilet intended for persons with disabilities did not work at the time of the visit. The shower in that toilet was not fully adjusted to be used by persons with disabilities (it was set too high). The toilets did not include any shelves/space for personal items, or any personal hygiene products or towels. The officers stated that person deprived of their liberty did not get any of these items upon arrival.

#### **4.1.1.2. Access to drinking water**

The police custody cells have taps and metal washbasins. When the button above the washbasin is pressed, the tap dispenses a pre-set quantity of water.

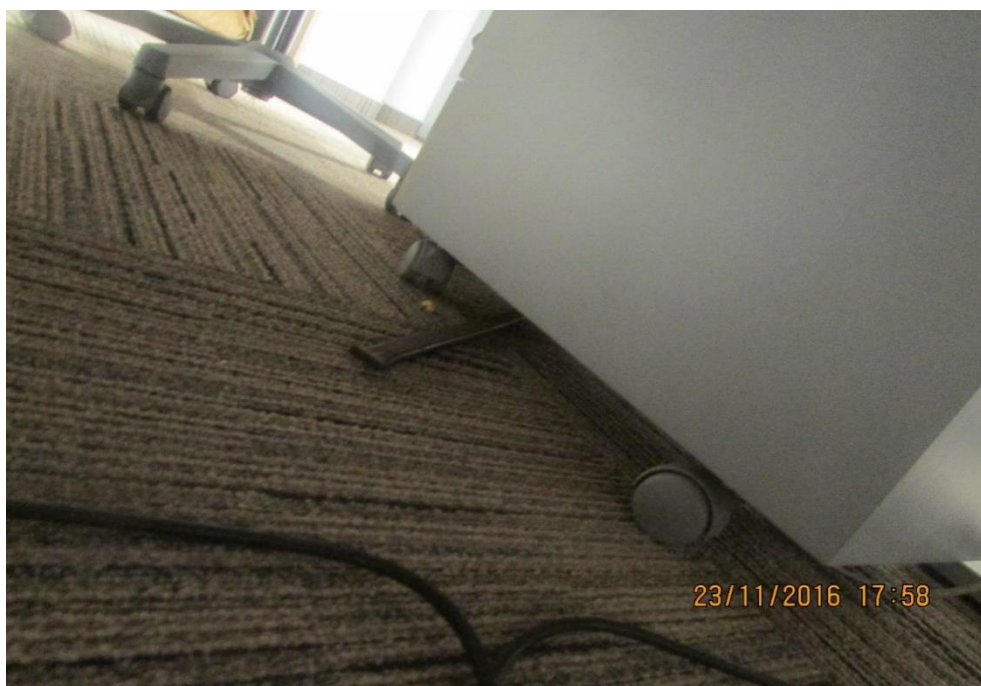
#### **4.1.1.3 Communication between the persons held in police custody and the officials**

The persons held in police custody communicate from the custody cells with the Regional Police Unit officers via intercom.

#### **4.1.1.4. Interrogation and interview rooms**

The Police Unit had no separate rooms for interrogations and interviews, but conducted these in the staff offices.

The NPM team identified no evidence indicating any abuse or inhuman treatment of persons deprived of their liberty in these premises. However, during the visit to the offices of the Crime Investigation Police Department, several unlabelled objects were found, which might be used to threaten, intimidate or extract statements from the persons questioned. The monitoring team found knives, metal bars and cables (in the cabinets and under the desks). The police officers stated that these objects had been seized from the citizens and associated with the commission of criminal offences. The presence of such a large number of unlabelled objects indicated that seized objects were not handled in line with the standards and the applicable Rulebook on seizure and handling of objects temporarily seized by a police officer.<sup>6</sup>



#### **4.1.1.5. Vehicle inspection**

Two vans were inspected during the visit; according to the inputs provided by the officers, these vehicles were used for the transportation of persons deprived of their liberty and persons held in custody.

The first vehicle was white and had registration plates number P\*PG005. No non-standard objects were found in the vehicle, and the hygiene level was assessed as relatively good. Inside the van, in the

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<sup>6</sup>Official Gazette of Montenegro 066/15 of 26 Nov, 2015.

compartment used for transportation, there were two benches. No natural or artificial lighting was provided. Ventilation was available – the police officer could switch on the fan in the rear section of the vehicle accommodating persons deprived of their liberty.

The other vehicle was blue and had registration plates number P\*PG070. The condition observed was the same as the condition of the vehicle described above.



#### **4.1.1.6. Storage of seized personal effects**

Any personal effects and objects seized from a person deprived of his/her liberty upon arrival at the Police Unit were recorded in a log – a registration book kept in the admission area and stored in a cabinet together with the rest of the folders containing documents. The person whose effects had been temporarily seized signed the list of seized items upon seizure and again upon receiving them back. The NPM's random selection of a certain number of case files confirmed that the persons whose personal effects had been sized signed the lists of seized items upon seizure and again upon receiving them back.

#### **4.1.1.7. Video surveillance**

The custody facility, entrance and the outside corridor were covered by video surveillance. Notification of video surveillance (door sticker) was displayed in plain view. However, video surveillance still did not cover the section of the stairs leading from the registration office number 2 to the custody facility. The NPM team checked the video surveillance footage and noted very poor resolution on the screen set up in the room used by the officers on duty and in the section for on-duty activities (only contours of the persons held in custody were discernible).

#### **4.1.1.8. Electric cabinet security**

The electric cabinet at the Podgorica Regional Police Unit was secured in line with the standards; it was locked and inaccessible to unauthorized persons.

#### **4.1.1.9. Inspection of documentation**

Documentation – case files put together upon taking a person in custody or depriving him/her of liberty- was inspected by means of random sampling. The emphasis was on documenting the exercise of rights of the persons held in custody or deprived of their liberty.

#### **a) Informing the persons held in custody of their rights**

It was noted that the persons held in custody received copies of the information sheets. The custody log suggested that the persons held in custody had signed in confirmation that they had been informed of their rights and had received the information sheets.

#### **b) The right to notify a close person**

The persons held in custody or deprived of their liberty were able to notify a third party - family member or another person close to them. However, that information was not entered in the custody log, but a separate book.

#### **c) Right to a lawyer**

Informing the person of the right to a lawyer was not entered in the custody log or in a separate register. There was no other format either that would enable the person to sign in confirmation of having been informed of this right. The police officers told the NPM team that all the persons kept in custody or deprived of their liberty were informed of their right to a lawyer and enabled to exercise that right by hiring a lawyer of their choice or one from the Bar Association roster.

#### **d) Right to health care**

The persons kept in custody or deprived of their liberty have access to medical assistance upon their request. The police officer calls the emergency care team. Medical assistance is provided in a separate room with a hospital bed; if needed, further medical treatment of the recipient of medical assistance is suggested. Provision of medical assistance is recorded in the detainee's file and additionally certified by the doctor's signature and the Emergency Care Unit stamp. Doctor's reports are also included in the detainee's file.

#### **e) Right to a meal**

Food is provided by the Regional Police Unit canteen. The persons held in custody for more than 12 hours are provided three meals a day (breakfast, lunch and dinner), in line with the Rulebook<sup>7</sup> on the method of police work and exercise of powers in the course of police work. The meals are brought by the police officers; that information is recorded in a separate section of the custody log, together with the exact time when the meal was offered and whether it was turned down by the person held in custody or deprived of liberty.

#### **f) Registers of persons apprehended or held in custody**

Registers of persons deprived of their liberty (over misdemeanour offences) and those held in custody (over criminal offences) and the documentation were inspected using random sampling; the inspection covered several case files related to custody or deprivation of liberty. The registers were properly kept and included accompanying documentation.

The number of persons deprived of their liberty between 01 January and 23 November 2016:

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<sup>7</sup>Official Gazette of MNE021/14 of 06 May 2014, 066/15 of 26 November 2015.

Apprehended – 1,104 persons;  
Held in custody – 205 persons.

According to the Police Unit records, 355 summoned members of the public came in for interviews.

The inspection of the Police Unit's registers resulted in the conclusion that the time and duration of deprivation of liberty were recorded and Article 264 of the Criminal Procedure Code was being complied with. The police officers guarding the persons deprived of their liberty and held in custody regularly completed Forms 1 and 2 – Custody Log with all the data, from the point of admission to the on-duty section of the Regional Police Unit-Police Station, to placement in the cells intended for persons deprived of their liberty and held in custody, seizure of personal effects, provision of meals, data on any injuries of the persons deprived of their liberty or held in custody, and data on any medical assistance provided, i.e. all the data to the point when these persons were brought before the competent judicial authority. Electronic records of all the aforementioned data are also available. Custody logs are drawn up in writing, with data entered manually.

#### **g) Use of force**

According to the data of the Regional Police Unit, between 01 January and 23 November 2016, the following instances involved use of force:

- Physical force                      47 instances;
- Police truncheon                  1 instance;
- Means of restraint                48 instances;
- Firearms                              No instances.

#### **4.1.1.10. Findings and recommendations**

Having considered police working conditions at the Podgorica Regional Police Unit and the conditions at the custody facility, the Ombudsman, in its capacity as NPM, notes that the police working conditions at this Unit are good, that CPT standards related to treatment of persons held in custody and to custody facilities are mainly complied with.

With a view to the exercise of and respect for human rights, it is important to highlight the elements observed during the visit which might jeopardise these objectives, namely lack of a regular staff training system and the fact that the NPM team, during the visit, found a large number of unlabelled objects in the offices of crime investigating inspectors which might be used for unlawful treatment or unacceptable techniques of information extraction, involving threats and torture of interrogated persons. Such a situation does not guarantee absolute certainty concerning police officers' actions. It is therefore necessary to immediately set up a training system for all levels of the police and to send clear and unambiguous messages from all positions about the need for equal protection of human rights and human dignity of all.

Based on the situation assessment, the Ombudsman, in its capacity as NPM, issues these recommendations:

To the Police Directorate – Podgorica Regional Police Unit:

- 1. Remove any non-standard and unlabelled objects from the offices where persons deprived of their liberty are interrogated;**

2. Ensure that the objects seized from the persons deprived of their liberty are stored in a separate locked room, in line with the applicable Rulebook<sup>8</sup>;
3. Ensure clear resolution on the screen set in the room used by the police officers on-duty and the Police Unit's section for on-duty activities;
4. Fix any electric malfunctions in a timely manner (change light bulbs etc.);
5. Provide shelves in the toilets for the personal items and hygiene products (soap and towels) of persons deprived of liberty;
6. Regularly maintain the hygiene of the sanitary facilities;
7. Provide artificial lighting in the vehicles used for transportation of persons deprived of their liberty.

To the Ministry of Interior - Police Directorate:

1. In the standardised custody log, insert additional sections on notification of third party of one's choice and on access to a lawyer.

The Ombudsman recalls the recommendation issued in the previous report (which was not complied with):

- Ensure that the section of the stairs leading from the registration office 2 to the custody facility is covered by video surveillance.

#### **4.1.2. Niksic Regional Police Unit and Pluzine Local Police Unit**

Information about the visit

Institution: Niksic Regional Police Unit and Pluzine Local Police Unit

Type of visit:	Regular visit according to the Montenegrin NPM plan of visits for 2016;
Purpose of visit:	Prevention of torture and situation assessment;
Date:	08 and 13 September 2016;
Announcement:	The visit was unannounced.
Composition of the team	
	: Mr. Dragan Radovic, Ombudsman Advisor;
	Ms. Danijela Brajkovic, Ombudsman Advisor.

### **Introduction**

The visits were conducted on 08 and 13 September 2016, without any prior notice.

Access to the police custody facilities, interrogation and interview rooms and other rooms was undisturbed, as well as access to the documentation requested for inspection.

The visits aimed to assess the respect for the rights of the persons deprived of their liberty; conditions in the custody facilities; floor space, availability of furniture, bedding and lighting in the cells, with a particular focus on whether it was possible to read there without resorting to artificial lighting; heating; ventilation; hygiene in

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<sup>8</sup>Rulebook on the seizure and handling of objects temporarily seized by police officer (Official Gazette of MNE 066/15 of 26 Nov 2015).

the cells; level of equipment of sanitary facilities; access to drinking water; method of communication between the persons held in custody and the police officers; availability of video surveillance etc.

## **Course of the visit**

### **Stage I: Discussion with the management**

The NPM team visit began with a discussion with the head of the Niksic Regional Police Unit and the commander of the police station in Pluzine. The plan and objective of the visit were presented during these introductory conversations.

### **Stage II: Visits to the Regional Police Unit and Local Police Unit**

The custody facilities were inspected, along with the vehicles used for transportation of person deprived of their liberty and the interrogation rooms.

### **Stage III: Interviews with the persons held in custody and persons deprived of their liberty**

At the time of the visit, one person was found in police custody. A confidential interview was conducted with that person, without the presence of any official persons.

### **Stage IV: Discussions with the officials**

The police officers present on site were interviewed. They informed the NPM about the method of work and treatment and the problems encountered in their work.

### **Stage V: Inspection of documentation**

Documentation was inspected, as well as registers of persons deprived of their liberty, persons held in custody and persons summoned for interviews in the capacity of members of the public.

### **Stage VI: Concluding discussion with the management**

At the end of the visit, the NPM Team Leader shared the main observations from the visit, primarily concerning the respect for the rights of the persons deprived of their liberty, the elements that might lead to ill-treatment or torture, and some deficiencies that could be promptly remedied.

#### **4.1.2.1. Treatment of persons deprived of their liberty**

At the time of the visit, one (male) person was found in police custody of the Niksic Regional Police Unit. A confidential interview was conducted with that person; on this occasion, the person in custody showed the copy of the information sheet delivered for persons held in custody. When asked by the NPM team, the person held in custody responded that the police officers treatment was fair, that he had been allowed to notify a third party of his deprivation of liberty and that he had been given a meal.

Inspection of the forms (OBR1 and OBR2) proved that the recorded time of deprivation of liberty matched the time stated by the person held in custody and that the meal had been recorded. There was written note that the person held in custody had been allowed to notify a third party of his choice of his deprivation of liberty and had been informed of the right to a lawyer.

No persons were found in custody at the Pluzine Local Police Unit.



#### **4.1.2.2. Material conditions**

##### **a) Custody facilities**

The following was noted during the visit:

Niksic Regional Police Unit had four custody cells of the following size: one double-occupancy cell of 12 m<sup>2</sup>, two single-occupancy ones of 7.5 m<sup>2</sup> and 8.5 m<sup>2</sup> respectively and one triple-occupancy cell of 15 m<sup>2</sup>; the dimensions and floor space were in line with the standards of the European Committee for the Prevention of Torture;

Pluzine Local Police Unit had one single-occupancy custody cell of 2.93m x 2.4m, with the floor space of 7.03m<sup>2</sup>. In case several persons needed to be held in custody, they were sent to Niksic Regional Police Unit. The floor space and dimensions of the custody cell were in line with the (CPT) standards. Access to the premises of the Pluzine Unit was not adjusted for persons with disabilities.

##### **b) Availability of beds and bedding**

All of the rooms had fixed wooden beds and tables, mattresses and bedding.

##### **c) Lighting, ventilation and heating**

At the time of the visit, the custody cells were clean and tidy, and there was a heating system in place. Natural light was available; however, in one of the cells of the Niksic Unit that light was insufficient. Artificial lighting and ventilation were available.

##### **d) Hygiene and sanitary facilities**

The sanitary facility at the Niksic Unit, situated adjacent to the custody cells, was in a good state of repair. The sanitary facility at the Pluzine Unit, situated adjacent to the custody cell, was out of order. Person deprived of their liberty used the sanitary facility upstairs, on the floor occupied by the staff. The NPM team noted the need to replace the worn-out fixtures in the sanitary facility.

#### **4.1.2.3. Access to drinking water**

The custody cells at the Regional and Local Police Units have taps and metal washbasins. When the button above the washbasin is pressed, the tap dispenses a pre-set quantity of water.

#### **4.1.2.4. Communication between the persons held in custody and the officials**

The persons held in custody and the officials of the Regional/Local Police Unit communicated via intercom.

#### **4.1.2.5. Interrogation and interview rooms**

There were no separate interrogation or interview rooms. These official actions took place at the staff offices. During the inspection of these premises, no objects were found that might be used to intimidate or extract statements, nor there was any evidence found of such actions.

#### **4.1.2.6. Vehicle inspection**

The Niksic Unit used special vehicles for transportation of persons deprived of their liberty, while the Pluzine Unit used other official police vehicles, usually patrol cars.

No objects or evidence indicating use of objects for intimidation or torture of persons deprived of their liberty were found in the vehicles identified on site and used to transport persons deprived of liberty.

#### **4.1.2.7. Storage of temporarily seized personal effects**

At the Niksic Unit, the objects seized in relation to a criminal offence, once they had been registered or subject to forensic examination, were stored away and properly labelled and registered in the registration book of seized firearms, book of other weapons or book of temporarily seized effects and objects. The person from whom such objects were seized received orderly receipts.

Any personal effects seized from the person deprived of his/her liberty were registered in the book kept in the admissions area; the person deprived of liberty was required to sign upon seizure and upon recovery of personal effects. The objects were kept in the safety-box in the on-duty section.

Any seized objects or seized personal effects were recorded in the custody log.

At the Pluzine Unit, any temporarily seized objects related to a criminal offence were stored away and properly labelled. Any temporarily seized personal effects were kept in a safety-box in the on-duty section. The person deprived of his/her liberty received one receipt when the objects or personal effects were seized and another one when they were recovered.

#### **4.1.2.8. Video surveillance**

At the Niksic Unit, the custody facility was covered by video surveillance. However, the lower section of the stairs leading to this facility was not covered by video surveillance. Camera resolution was not good, with only contours discernible.

The technical capacities of the devices installed at the Niksic Unit enabled video surveillance footage to be stored for 10 days.

At the Pluzine Unit, the custody cell was equipped with video surveillance and a notice to that effect was displayed. No corners were out of reach, and video footage was stored for 120 days.

#### **4.1.2.9. Security of the electric cabinet**

The cabinets were secured in line with the standards (locked and inaccessible to any unauthorized persons).

#### **4.1.2.10. Inspection of documentation**

##### **a) Informing persons deprived of their liberty of their rights**

Inspection of documentation confirmed that the persons held in custody received copies of the information sheets. This was also entered in the custody logs. The person held in custody signed in confirmation of having been informed of his/her rights and having received the information sheet.

##### **b) Right to notify a close person**

Inspection of a special log showed that persons deprived of their liberty were allowed to notify a family member or another close person. This was not recorded in the custody log.

### **c) Right to a lawyer**

This information was not recorded in the custody log or in a special register. The police officers, during their discussion with the NPM team, stressed that all persons deprived of their liberty were informed of their right to a lawyer of their choice or one from the Bar Association roster.

### **d) Right to health care**

At the Niksic Regional Police Unit, a person held in custody is taken, as required or upon his/her request, to the nearest medical institution and is entitled to a doctor of his/her choice. If needed, due to urgency or no possibility to transport the person to a medical institution, medical assistance would be provided at the premises of the Regional Police Unit. If a person deprived of his/her liberty states that he/she needs to undergo therapy, the relevant healthcare institution (Medical Centre) is immediately notified and will organise examination and render its opinion on the need for therapy. Information about possible health problems and medical care make an integral part of the person's file.

In 2016, the staff of the Medical Centre in Niksic carried out 19 medical examinations of persons deprived of their liberty or held in custody.

At the Pluzine Local Police Unit, there was only one instance (in 2013) when a person deprived of liberty requested medical assistance. That person was taken to the Healthcare Unit in Pluzine, as recorded in the person's file. Persons deprived of their liberty cannot select a doctor of their choice, since there is only one general practitioner working at the Healthcare Unit.

### **d) Right to a meal**

Inspection indicated regular record-keeping on the meals provided to persons deprived of their liberty. According to the Rulebook, any custody longer than 12 hours implied the provision of three meals a day. The official persons said that this regulation was applied and cold meals were provided. Such a practice was not in line with the CPT standards, stipulating at least one full meal (something else than a sandwich).

### **f) Register of persons apprehended and held in custody**

Registers of persons deprived of liberty (over misdemeanour offences) and held in custody (over criminal offences) were inspected, as well as randomly sampled documents related to several different cases. The registers were orderly and the accompanying documentation was in place.

The number of persons deprived of their liberty at the Niksic Unit, between 01 January and 08 September 2016:

Apprehended – 463 persons;  
Held in custody – 19 persons.

The number of persons deprived of their liberty at the Pluzine Unit, between 01 January and 13 September 2016:

Held in custody: 1 (one) person;  
Apprehended: 7 (seven) persons.

## **g) Use of force**

According to the data of the Niksic Unit, between 01 January and 08 September 2016, force was used in the following eight instances:

Physical force	2 (two) instances;
Physical force and means of restraint	4 (four) instances;
Physical force and hand-held spray	1 (one) instance;
Physical force, hand-held spray and police truncheon	1 (one) instance.

At the Pluzine Unit, between 01 January and 13 September 2016, force was used in two instances:

Physical force	1 (one) instance;
Means of restraint	1 (one) instance.

### **4.1.2.11. Findings and recommendations**

Based on the situation assessment, the Ombudsman, in its capacity as NPM, issued the following recommendations:

To the Police Directorate – Niksic Regional Police Unit:

- 1. Ensure natural light sufficient to read by in the custody cell 1;**
- 2. Ensure clear resolution on the screen set up in the on-duty section;**
- 3. Ensure video surveillance of the section of the stairs leading from the rear official entry to the custody facility.**

To the Police Directorate – Pluzine Local Police Unit:

- 1. Ensure access to the Unit for person with disabilities;**
- 2. Reconstruct the sanitary facility intended for use by the persons held in custody.**

## **4.2. Institution for the Enforcement of Criminal Sanctions (ZIKS) – thematic visit**

Information about the visit

Institution: Institution for the Enforcement of Criminal Sanctions-ZIKS, Podgorica

Type of visit: Regular visit according to the NPM of Montenegro plan of visits for 2016

Purpose of the visit: Assessment of the situation concerning inmate health care – availability of secondary and tertiary health care for persons deprived of their liberty;

Dates of the visit: 18 and 19 October 2016;

Announcement: The visit was unannounced.

Composition of the team:

Mr. Dragan Radovic, Ombudsman Advisor, Team Leader;

Ms. Zdenka Perovic, Deputy Ombudsman;  
Ms. Danijela Brajkovic, Ombudsman Advisor;  
Dr Aleksandar Tomcuk, Psychiatry Specialist, Working Body member.

## **COURSE OF THE VISIT**

### **STAGE I**

#### **DISCUSSION WITH THE INSTITUTION'S HEALTH-CARE SERVICE PERSONNEL**

The NPM team visit began on 18 October with the initial discussion with the doctors and nurses working at the Health-Care Service.

The aim and plan of the visit were presented during the discussion.

### **STAGE II**

#### **DISCUSSION WITH THE PRISONER ESCORT OFFICERS**

Team members had a discussion with the prisoner escort officers, responsible for escorting the inmates from ZIKS to public health-care institutions at the territory of Montenegro.

### **STAGE III**

#### **INSPECTION OF DOCUMENTATION**

The NPM team inspected the relevant documentation in order to review and analyse the status of health care of detainees and prisoners.

#### **OFFICIALS' CO-OPERATION WITH THE NPM TEAM**

The co-operation was at an appropriate level; the staff responded to all questions and requests. The NPM team had access to the premises of the Health-Care Service and unhindered insight into all the requested documentation.

### **Introduction**

The aim of the visit was to assess availability of secondary and tertiary health care to detainees and prisoners, with particular focus on the waiting times for the indicated specialist appointments in external health care institutions, outside ZIKS. Detainees and prisoners are entitled to the same health care as the general population of Montenegro. Provision of adequate health care to inmates is of particular importance, since, given the confinement setting, individuals' health condition has direct impact on the the entire community.

#### **4.2.1. Health-Care Service personnel and organisation of work**

The Health-Care Service at ZIKS includes 20 medical professionals employed based on open-ended contracts:

- Three general practitioners;
- One dentist- dental surgery specialist;
- One college-educated head nurse;
- Ten nurses;
- One dental nurse;
- One physiotherapist;

- One laboratory assistant;
- Two pharmacy technicians.

ZIKS hires external specialists in different branches of medicine to provide services in-house:

- Two specialists in psychiatry – one provides services related to addiction treatment, three times a week, and the other provides services related to treatment of other psychiatric disorders, once a week;
- One internal medicine specialist, who provides services related to this branch of medicine once a week
- One radiology specialist, who provides X-ray and ultrasound diagnostic services once a week.

Two doctors work at ZIKS from 7 a.m. to 3 p.m.; one doctor is available in the afternoon. One doctor is on stand-by during the night and comes to ZIKS from home when called.

In-house doctors examine a person within 24 hours after admission. Laboratory tests are done externally, as required, at the laboratory of the Clinical Centre of Montenegro.

Glycemic control of the inmates suffering from diabetes (blood glucose level check) takes place once in two months, or more frequently if required.

#### **4.2.2. Prisoner Escort Service – staffing and organisation of work**

Head of the Prisoner Escort Service was interviewed and the following information obtained:

The service included 26 prison guards on open-ended contracts, responsible for prisoner escorts, and 9 vehicles. The Internal organisation and job scheme regulation of ZIKS envisaged 34 work positions to cover prisoner escorting responsibilities; thus, 76% of positions were filled at the time.

The service was organised in such a manner that all prisoner escort officers worked each working day from 7 a.m. to 3 p.m., and there was a stand-by system from 3 p.m. to 7 a.m.

Priority was assigned to the persons who needed to be taken to courts (for the purposes of court and prosecutorial procedures); the relevant orders served as the basis for drawing up the daily schedules.

Depending on the security risk, detainees and prisoners were escorted by at least two officers, with the possibility to increase that number to maximum five officers, if needed.

Prisoner escort officers also guarded any detainees or prisoners hospitalised in external health care institutions.

#### **4.2.3. Documentation**

The following documentation was inspected during the visit:

- List of Escorts – document completed on a daily basis and containing the names of the persons to be escorted;
- Escort Service Log – document recording escorts by dates and names of the persons escorted.

The NPM team learned from the discussions with the Health-Care Service staff about the internal (unwritten) agreement with the Escort Service (confirmed by this Service), to escort up to five persons per working day, given the need for external specialist medical services (examinations). In case there were more than five persons to escort, their appointments were re-scheduled.

According to the Head Nurse, appointments were mainly postponed by one to two months, depending on the type of specialist appointment indicated and on the available time slots at the Clinical Centre.

The list of persons to be escorted to external institutions for scheduled specialist appointments or diagnostic procedures was delivered to the Escort Service one day in advance, as agreed.

It was observed that the documentation related to escorts was not kept up-to-date. The contents of the List of Escorts and Escort Service Log should be identical with regard to the personal data of the persons to be escorted and those who were escorted. A review of these records identified incongruencies and irregularities in some instances.

When all of the planned escorts could not be organised, the Health-Care Service conducted a triage, based on the health condition and degree of urgency, so that those whose medical indications were a priority were referred to specialists. In practice, it was sometimes necessary to give priority to those whose health condition had deteriorated abruptly and called for urgent diagnostics and treatment.

**Table 1 - Overview of referrals for consultations with specialists (issued before 18 October 2016-pending)**

<b>Specialist service</b>	<b>Referral no.</b>	<b>Date of issuance</b>	<b>Appointment scheduled for</b>
Radiologist	42	Data not available	Data not available
Ophthalmologist	18	07 June 2016	21 Oct 2016
Surgeon	9	29 August 2016	21 Oct 2016
ORL	6	20 April 2016	17 Oct 2016
Orthopaedist	5	26 August 2016	25 Oct. 2016
Physiatrist	9	05 August 2016	27 Oct 2016
Neurosurgeon	1	15 Sept 2016	17 Oct 2016
Cardiologist	1	01 Sept 2016	25 Oct 2016
Neurologist	1	15 Sept 2016	28 Oct 2016
Dermatologist	1	Data not available	Data not available
<b>Total</b>	<b>93</b>		

The table above suggests that out of the total number of 93 indicated specialist appointments, 42 i.e. 45% were for radiology specialists, while 51 persons were referred to other specialists.

Specialist X-ray diagnostics required by ZIKS is provided by the public health-care institutions:

1. Primary Healthcare Centre, Danilovgrad – X-ray diagnostics,
2. Clinical Centre of Montenegro, Podgorica – X-ray diagnostics and other services.

According to the statements of the Health-Care Service staff, the inmates were most frequently referred for this diagnostic procedure; however, it did not involve long waiting times.

Out of the 42 referrals for radiology diagnostics, as of 18 October 2016, 38 were for X-ray diagnostics, 3 for CT diagnostics (one had been scheduled, while the other two referrals were issued on 18 October 2016) and 1 for MR diagnostics (scheduled appointment).

**Table 2 – Overview of referrals to specialists broken down by months (excl. radiology services)**

Month – 2016	Number of indicated specialist services
January	94
February	120
March	117
April	122
May	99
June	133
July	134
August	123
September	114
October (before 18 oct.2016)	95
	<b>TOTAL: 1157</b>

**Table 3** – Overview of scheduled and postponed (re-scheduled) specialist appointments – September and October (before 18 Oct 2016) – (excl. radiology services)

Month – 2016	Number of appointments scheduled	Number of appointments postponed i.e. rescheduled
September	114	34
October (before 18 Oct.2016)	95	29
<b>TOTAL:</b>	<b>209</b>	<b>63</b>

The table above shows that, out of the total number of 209, 146 specialist appointments i.e.69.9% took place, while 63 appointments i.e. 31.1% were postponed i.e. rescheduled (a new date was set for the appointment), due to the Prisoner Escort Service not being able to escort the patients to their appointments.

According to the information obtained from ZIKS Health-Care Service, appointments with the specialists in gastroenterology, ophthalmology, cardiology and physical medicine involved longest waiting times. The waiting times for these specialist appointments posed a recognized problem for the general population as well, due to the large numbers of patients and limited capacities and staffing of the Clinical Centre; therefore, this problem was not exclusively faced by persons deprived of their liberty.

Discussion with the Health-Care Service staff revealed that a certain number of inmates refused to attend scheduled appointments for various personal reasons. There were 4 such instances in September and 1 in October.

On the day of the visit, four persons were waiting for indicated surgeries: three were waiting for pilonidal sinus surgery (medical condition which does not require urgent surgery), and one persons was waiting for the ophthalmological surgery scheduled at the private clinic "Optimal" (medical review board had approved the surgery on 12 Oct 2016).

Review of referrals for specialist appointments, which relied on the ICD X (International Classification of Diseases X) referral system, suggested that most of the requested consultations could potentially be organised at the primary and secondary levels of health care at the Primary Healthcare Centres in Danilovgrad and Podgorica or at the General Hospital in Niksic. This is of particular importance given the excessive workload handled by the Clinical Centre of Montenegro, receiving a large number of patients from the whole country for tertiary care; this was also the main cause of long waiting times for specialist appointments. Organisation of specialist appointments at the primary and secondary care levels would significantly shorten waiting times and reduce the number of inmates waiting for specialist appointments (waiting list).



The Ombudsman, in its capacity as NPM, highlights that ZIKS has to ensure health care of detainees and inmates on a par with the health care provided to the community. In line with the good practice, health care in the prison should be organised in close co-operation with the health-care services in the community, including provision of constant health care.<sup>9</sup>

#### **4.2.4. Findings and recommendations**

With regard to the legal framework, the health care of detainees and prisoners is regulated, at the national level, by the Law on Enforcement of Imprisonment Sentences, Fines and Security Measures, Law on Health Care and Law on Health Insurance. The minimum standard concerning access to medical care for prisoners is set forth in the document "Standard Minimum Rules for the Treatment of Prisoners", adopted at the United Nations Congress in 1955<sup>10</sup> and the "European Prison Rules" from 2006, issued in the form of Recommendations of the Council of Europe Committee of Ministers.

Based on its assessment of the situation, the Ombudsman, in its capacity as NPM, issues the following recommendations to ZIKS:

- 1. Consider the option of referring patients to specialist consultations to the primary and secondary health care institutions in the vicinity, for those diagnostic categories which involve longer waiting lists and which can be effectively addressed at these levels of health care (Primary Health Care Centres Danilovgrad and Podgorica or Niksic General Hospital);**
- 2. Consider the option of hiring a part-time physical therapy specialist who would periodically conduct examinations at ZIKS, given the heightened need for this type of specialist service and the fact that these appointments do not require additional diagnostic equipment;**
- 3. Fill the vacant work positions in the Prisoner Escort Service which are already included in the job scheme regulation, for the sake of optimal functioning and servicing of the needs of the Health-Care Service and other services;**
- 4. Prisoner Escort Service should keep the records on escorting detainees and prisoners up-to-date.**

#### **4.3. Institution for Sentenced Prisoners (KPD) Podgorica – thematic visit**

Information about the visit

Institution: ZIKS, KPD Podgorica

Type of visit: Regular visit in accordance with the NPM plan of visits for 2016;  
Purpose of visit: Assessment of the penological treatment of prisoners;  
Dates of the visit: 01 and 02 December 2016;  
Announcement: The visit was unannounced;  
Composition of the team:  
Mr. Dragan Radovic, Team Leader, Ombudsman Advisor;  
Ms. Danijela Brajkovic, Ombudsman Advisor;  
Ms. Zorica Minic, psychologist, Working Body member,  
Ms. Ljiljana Garic, adult education specialist, Working Body member.

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<sup>9</sup>Revised UN Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules), adopted on 17 December 2015.

<sup>10</sup>Ibid.

## **COURSE OF THE VISIT**

### **STAGE I**

#### **DISCUSSION WITH THE MANAGEMENT OF THE INSTITUTION**

The visit began on 01 December with a discussion with the manager of the Institution for Sentenced Prisoners (KPD) Podgorica, during which the objective and plan of the visit were presented.

### **STAGE II**

#### **TOUR OF THE PRISON, SURVEY OF PRISONERS AND INTERVIEWS WITH THE PRISONERS AT THE CLOSED SECTION OF THE KPD**

The team members split into two groups and conducted a survey and interviews with the inmates in Pavilions A, B, C, D and F.

### **STAGE III**

#### **DISCUSSION WITH THE TREATMENT SECTOR PERSONNEL**

Discussions were held with the manager and personnel of the Treatment Implementation Department and with the personnel of the Personality Screening Department.

The manager of the Treatment Implementation Department provided the following data, as requested:

- Work positions assigned to inmates and the number of such work positions;
- Number of inmates engaged in work;
- Vocational training and other educational activities intended for the staff or for the inmates, implemented in 2015 and 2016;
- Number of staff at the Treatment Implementation Department, their qualifications and years of work experience.

## **Introduction**

As stated above, the main objective of the NPM's visit to the KPD Podgorica was assessing the situation related to penological treatment of inmates.

The Ombudsman, in its capacity as NPM, recalls that treatment is the procedure of re-socialisation of the persons convicted to imprisonment sentences. Treatment during enforcement of criminal sanctions should focus on preparing the individual, during his/her prison sentence, to integrate back into the community and not to re-offend. Treatment implies a multi-disciplinary approach and joint action of a number of scientific disciplines – psychology, psychiatry, socio-pathology, pedagogy etc, contributing to behaviour analysis, problem identification and development of individualised treatment. Such a multi-disciplinary approach, developed as a penological concept, bears special importance from the perspective of protection of human rights of prisoners and re-socialisation and re-integration of the individual into the society, aimed at preventing recidivism.

“In addition to classification into groups, treatment includes the following:

- Work;
- Vocational training and education;
- Participation in cultural and sports activities;
- Contact with families and others outside the prison etc.

The inmate treatment and re-integration programme aims to develop the sense of responsibility and foster the initiative for re-integration into the society<sup>11</sup>.

Treatment takes into account several aspects:

- Personality assessment;
- Implementation of individualised treatment;
- Implementation of specialised programmes intended for prisoners;
- Prisoners' communication with the instructor and instructors' activities;
- Treatment of elderly inmates;
- Treatment of juveniles.

For the purposes of this Report, data was collected during the following:

- Discussion with the KPD manager;
- Discussion with the manager of the Treatment Implementation Department ;,
- Discussion with the personnel of the Treatment Implementation Department and Personality Screening Department;

- Survey of the prisoners from the closed section,
- Discussions with the prisoners from the closed section,
- Review of prisoners' personal files;
- Data obtained from the Treatment Implementation Department (delivered upon NPM team's request).

#### 4.3.1. General information about the prisoners

At the outset of the visit, the NPM team received from the KPD management the following data on the inmates, as of 01 December 2016:

Table 1 – Number of inmates per category

Category	Number of inmates
Closed section ( Pavilions A, B, C, D, F)	428
Admissions Section	21
Women	23
Juveniles	3
Over 60 years of age	22

The number of inmates per rehabilitation collectives, as of 01 December 2016:

- Group A1            33
- Group A2            30
- Group B1            55
- Group B2            52
- Group D1            58
- Group D2            69
- Group F1            41
- Group F2            58
- Group C             32

The inmates placed in the rehabilitation collective C were classified as group IV. The inmates from other rehabilitation collectives were classified as groups I, II and III.

<sup>11</sup>House Rules at the Institution for the Enforcement of Criminal Sanctions, Official Gazette of Montenegro 035/16 of 03 June 2016.

### **4.3.2. Admission of sentenced persons and development of treatment programme**

Upon admission, a person sentenced to a term of imprisonment arriving to the KPD Podgorica undergoes criminal assessment and hygiene and health screening; then, he/she is placed in a specific section of Pavilion A dubbed “the quarantine”, where he/she can stay for a maximum of 30 days. While at “the quarantine”, the inmate is briefed about his/her rights and obligations during the term of imprisonment, the method of exercise of his/her rights and the disciplinary sanctions he/she may be imposed (in case of disciplinary offences).

The law stipulates that admission for serving an imprisonment sentence or the 40-year imprisonment sentence is followed by the assessment of the inmate’s social status as well as criminal, medical, psychological and other personality screenings which are of relevance for developing the treatment and re-integration programme. The inspection identified that the inmates’ personal files lacked this type of assessment.

The personnel working at the Personality Screening Department apply a risk assessment tool to assess the risk factors related to repeated criminal behaviour and develop the treatment plan. The tool used for risk assessment encompasses 12 areas (criminal history, the criminal offence in question, financial situation, substance or alcohol abuse, family situation, education, social status, mental health, attitudes, behaviour, social cognitive skills and values). The Department team is composed of a psychologist, social worker, criminology expert and Head of the Department (psychologist).

If any psychological problems are identified during the medical screening, a psychiatrist is invited to interview the inmate. ZIKS Health-Care Service does not have a psychologist. Two neuropsychiatrists are engaged on a part-time basis.

The Admissions Section of Pavilion A includes an office where the Personality Screening Department personnel conduct interviews and carry out assessments.

Screening results, together with the severity of the sentence, type of criminal offence, prior convictions, individual characteristics, the route by which they arrived to serve the sentence and other circumstances serve to develop the inmate treatment programme, which includes the following:

- Classification group the inmates is assigned to;
- Placement (closed section, semi-open section, open section) and Pavilion (rehabilitation collective);
- Work;
- Vocational training and education;
- Sports, culture-arts and leisure activities;
- Special precautionary measures;
- Privileges during the term of imprisonment;
- Family relations and contacts.

The treatment programme is approved by the KPD manager, following the proposal submitted by the Personality Screening Department.

At the end of their engagement with the Department, the sentenced person signs a statement confirming that he/she has been notified of the obligations and rights pertaining to the term of imprisonment and a statement as to whether he/she wishes to work during that term.

Based on the discussions with the inmates who were in the “quarantine” and the ones who were in the rehabilitation collectives at the time of the visit, the NPM team noted that over the period of 25 to 30 days

(maximum) that the inmates spent at the Admissions Section, only one 1-hour individual interview was conducted by the official person. There were no organised activities during the rest of that period. The impression is that this does not fully implement the function of the Admissions Section consisting of profiling, preparing the convicted person for serving the term and initiating re-socialisation.

### 4.3.3. The survey and its results

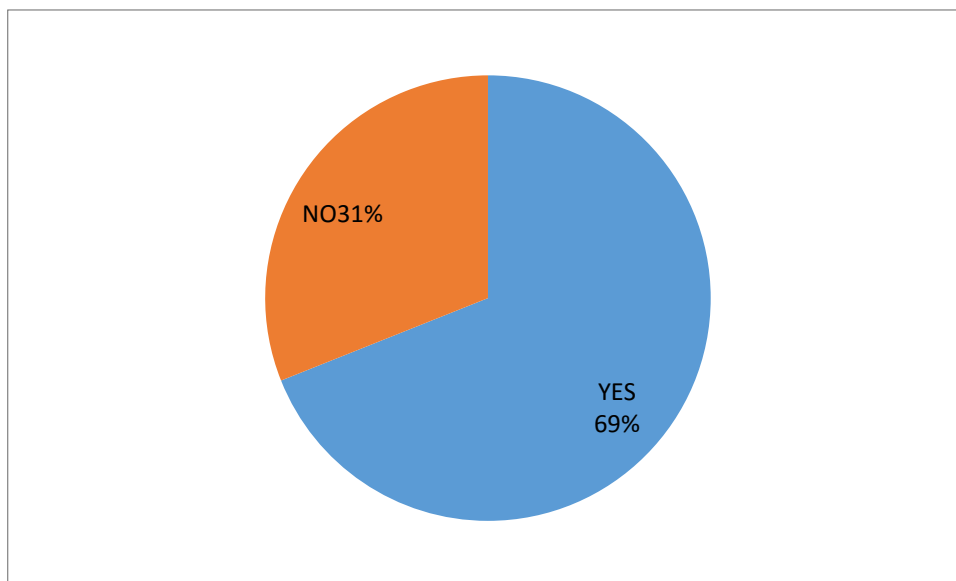
Out of the total number of inmates in the closed section of KPD (428) - Pavilions A, B, C, D and F – the NPM team surveyed 232 inmates, i.e. 54.2%. The inmates were distributed the questionnaire which had been prepared in advance.

The opening question of the survey asked whether the inmate was informed about the treatment programme set for him/her<sup>12</sup>. Majority of respondents - 160 i.e. 69% - answered yes.

However, the discussions suggested that most inmates were not aware of what treatment included, but understood treatment programme only as being assigned to a classification group to serve their sentence in.

Those who said they had not been informed about the treatment programme (72 i.e. 31%) included a number of inmates with prior experience of serving sentences in prisons abroad and being covered by treatment programmes there.

**Figure 1**-Level of information about the treatment programme



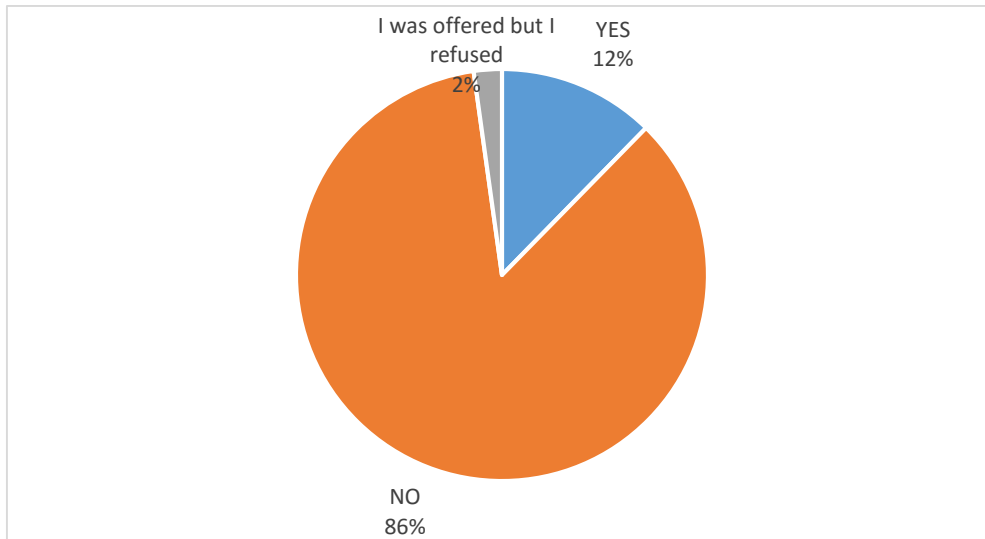
The next question referred to specific participation in a specific treatment programme (e.g. drug rehabilitation, stress or anger management, conflict resolution etc.).

Only 28 out of the total of 232 respondents said yes, meaning that only 12% of inmates took part in some specific treatment programme.

**Figure 2** – Participation in specific treatment programme

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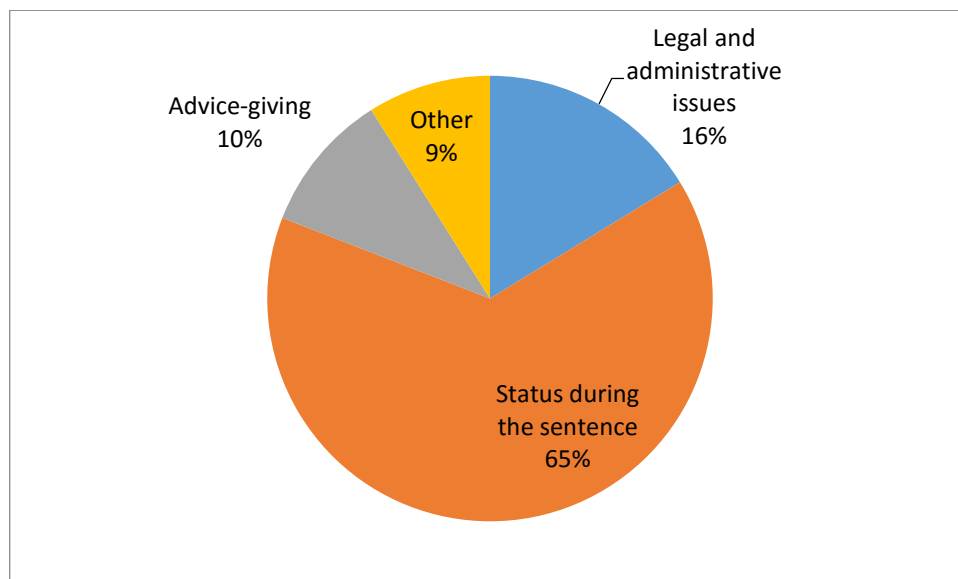
<sup>12</sup>Before they started completing the questionnaire, all of the rehabilitation collectives received verbal explanation of the meaning of the phrase “treatment“.



The NPM team focused also on analysing the instructor–inmate relations; therefore, the survey included a question on the most frequent topics addressed in their discussions:

- Legal – administrative issues;
- Status issues (re-classification, parole, requests for visits etc.);
- Advice giving (personal family problems, conflicts with other inmates, conflicts with staff etc.), or
- Other.

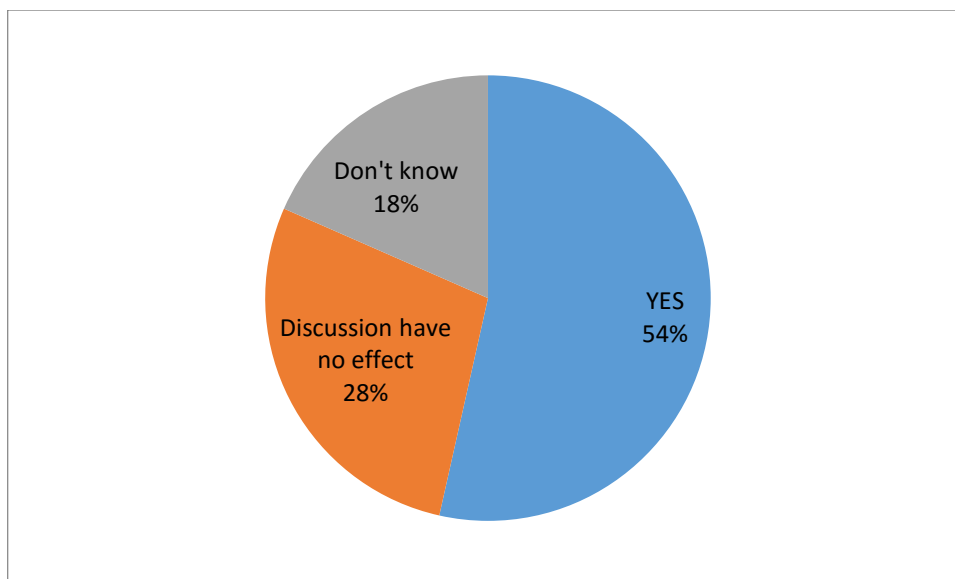
**Figure 3** – Contents of discussions between inmates and treatment officers (instructors)



As shown above, most inmates – 65%, said they discussed status issues with the treatment officers, while 16% said they discussed legal-administrative issues, 10% referred to advice-giving, and 9% discussed other issues.

When asked whether the discussions with the treatment officers helped, 54% of respondents said yes (Figure 4). One in four thought that those discussions had no effect, and one in five could not say whether they had any effect.

**Figure 4** – Do the discussion with the treatment officer (instructor) help?



The survey results suggest that the KPD has not established specific treatment programmes yet. A high rate of re-offenders and multiple re-offenders, out of whom many are special re-offenders, indicates that, regrettably, these inmates did not rectify their behaviour after serving the first or even second sentence. The Ombudsman, in its capacity as NPM, deems it concerning that specific treatment programmes have not been developed and are not being implemented.

The survey and the interviews support the observation that inmates do not feel at liberty and do not have sufficient confidence to talk to the treatment officers about the situations which usually require a relationship of trust. Development of this kind of co-operation and communication is an important element of adequate integration into the social setting and re-socialisation after having served the sentence; it is also of particular importance for the prevention of ill-treatment, abuse and torture, both in inmate-officer and inmate-inmate relations.

#### 4.3.4. Exercise of the right to work

The NPM team got the data on the jobs and working activity available to prisoners from the Treatment Department Head.

According to these data, prisoners' working activity in the Institution for Sentenced Prisoners (KPD) in Podgorica can be exercised at the positions within the closed and semi-open section, while female prisoners can exercise the same in the female section.

***The prisoners in the closed section*** can exercise their working activities at the following positions:

- in the carpentry workshop, which consists of three sections: machine section (manufacturing of semi-manufactured products and segments made of wood), manual section (manufacturing of segments and assembling of furniture) and carving section (carving of furniture, icon engraving and engraving works in monasteries, etc.);
- metalworking workshop which consists of three units - machinery: tools section (manufacturing of doors, windows and various other segments, as well as doing repairs and maintenance work for the Prison), sheet metal section and varnishing section;
- tailoring workshop (sewing and mending)
- internal construction operations (various types of construction works like building, plastering, ceramic works);
- prison kitchen (preparation and distribution of food),

- internal maintenance (plumber, electrician, locksmith),
- internal services (monitor, hairdresser, librarian, gardener).

**In the semi-open section** the prisoners can exercise their working activities at the following positions:

- cattle farm,
- chicken farm,
- pig farm,
- plant production (mower, gardener, tractor driver),
- external maintenance (locksmith, carpenter, plumber, electrician, tinker),
- prison kitchen (cook, kitchen ancillary staff, food distribution, driver),
- central warehouse (warehouse ancillary worker),
- external services (monitor, hairdresser, librarian);
- prison canteen (canteen worker, egg seller)
- car mechanic workshop.

In the **female section** the prisoners can exercise their working activities at the following positions:

- laundry room,
- food distribution,
- library,
- tailoring workshop (small workshop within the section, while the tailoring workshop for the prisoners is located in the workshop area).

Out of the total number of prisoners in the Institution for Sentenced Prisoners (KPD) on 2<sup>nd</sup> November 2016 – (587 men and 21 women), 43% inmates were engaged in some working activity. Out of that percentage, solely 9.6% were engaged in manufacturing and artisanal activities.

Table 2 – Number of prisoners engaged in working activities (on 2<sup>nd</sup> November 2016)

Type of activity	Number of prisoners with working activities
Metalworking	7
Internal and external maintenance of electrical installations	9
Construction works	19
Work in the canteen	15
Work in the prison kitchen	51
Internal services – monitor	84
Plumbing	1
Work in the boiler-room	2
Work in the warehouse	5
Work in plant production <sup>13</sup>	40
Work in carpenter workshop	17

The decision on prisoners' working activities based upon the proposal of the treatment officers is made at the Board meeting composed of the following:

- Head of Treatment Department
- Head of Labour Department
- Head of Security Department
- Head of the Institution for Sentenced Prisoners (KPD)

The prisoners of all the collectives that the NPM talked to expressed their interests and desire to be engaged in some working activity. Only their interests exceed the capabilities of the Institution, so that most of them need to wait for quite some time to be engaged in some working activity.

<sup>13</sup>Prisoners active in the field of plant production work only during the season as these activities are related to mowing, maintenance of decorative plants, lawn watering



The employed in the Labour Department underline the issue of the lack of resources, insufficient number of instructors, insufficient level of equipment in the workshops and small number of positions in them.

There is a noticeable discrepancy between the data on working activity obtained through the survey and interviews with the prisoners and those obtained from the Head of the Treatment Implementation Department. In fact, according to the data of the Treatment Implementation Department the number of those engaged in a working activity is greater than the number resulting from the actual interviews. The NPM team notices that part of the discrepancies can be explained by the fact that the prisoners from the semi-open section, who had not taken part in the survey or who had not been interviewed, are more frequently engaged in some working activity.

We can notice that the majority of prisoners in the closed section of the KPD are engaged in the activities that are of temporary nature or require very brief daily engagement.

The Ombudsman as the NPM reminds of the viewpoint of the CPT that the lack of activity may lead to serious health consequences and may affect the wellbeing of the persons deprived of their liberty. Work and education are important elements in the preparation of prisoners for their life outside the prison. Moreover, programmes and activities play an important role in ensuring safety to both prisoners and the prison staff. They are key elements in torture prevention. If prisoners are forced to remain passive and in poor conditions for a longer period of time it is more likely that there will be higher tensions in the penitentiary and that the efforts for the establishment of safety through positive relations and activities are diminished. The CPT recommends for the authorities to invest joint efforts in providing programmes and activities, including work and education for all prisoners.<sup>14</sup>

#### **4.3.5. Prisoners' vocational training and education**

Head of the Treatment Implementation Department notified the NPM team that as of May 2016 some of the treatment officers (psychologists) developed group work programmes through psychological workshops, literacy activities, as well as the prisoners' psychoactive substances abuse rehabilitation programme led by a psychiatrist - "narcologist", hired part-time with the Institute for the Enforcement of Prison Sentences, and two treatment officers - psychologists.

During the interviews with the prisoners one of the questions asked was—would you take part in vocational training and other forms of informal education? The majority of prisoners expressed their interest for the inclusion in vocational training programmes for trades as well as for the acquisition of skills (foreign languages, computers etc.)

Based on the data obtained in this way, after having inspected prisoners' files and after having talked to them, it can be concluded that despite the stated activities, group work and literacy programmes, vocational training programmes have not been organised to a satisfactory level although they are an essential treatment measure and means for better reintegration into community.

#### **4.3.6. Cultural and sports activities**

The prisoners in all facilities agree that sports activities are represented and accessible to everybody, while art-section is organised from time to time. The prisoners do not use library very much and they do not express interest in using this form of entertainment. Cultural activities are not organised, thus they have no opportunity to take part in them.

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<sup>14</sup>UN Torture Prevention Subcommittee Report on the visit to Maldives in 2009, paragraph 223

However, there are no sports activities organised by the service entrusted with the same, instead prisoners get self-organised and use the gym, play football etc.

#### 4.3.7. Prisoners beyond the age of 60

The prisoners beyond the age of 60, 12 of whom were serving their sentences during the interviews with the NPM team, stated that they had no objections with regards to the accommodation and their relationships with the employees and other inmates.

The elderly prisoners emphasize that medical care could be better, especially with regards to timely provision of the necessary treatment and medicines.

In addition to the medical staff, younger prisoners often take care of the elderly prisoners (when moving, going to toilet) and watch over their needs.

The NPM team noticed that only one prisoner beyond the age of 60 was paralysed, i.e. was using the wheelchair.<sup>15</sup>

The majority of elderly prisoners stressed in particular that the visits of their family members and the encounters with their grandchildren mean a lot to them during the serving of their prison sentences.

#### 4.3.8. Juvenile prisoners

At the time of our visit there were four juvenile inmates in the Correctional Facility – Juvenile Department (located in the F pavilion). The NPM team noticed that in the same section juvenile prisoners were placed next door to the adult inmates posing security risks. The employees in the Local Police Unit explained that minors did not get in touch with this other group of prisoners, that their respective walks and activities schedules did not coincide and there was no possibility for them to meet.

The NPM team encountered a juvenile inmate (17 years of age) who had not been sentenced to juvenile imprisonment term, but that he had been pronounced a correctional measure. This juvenile person was placed in the Correctional Facility according to the correctional measure “Referral to an institution”, which could last from six months up to three years<sup>16</sup>, for the offence of minor bodily injury.

This piece of information is worrying since the minor was placed in the Juvenile Section for **those serving imprisonment term**. Also, the Law on the treatment of juveniles in criminal proceedings prescribes that during the enforcement of the correctional measure against a minor special professional correctional programmes are to be carried out, which had not been done in the case concerned. After having inspected the personal file and after having interviewed the minor the NPM team established that there was no special programme for the minor.

“The personnel working with juvenile offenders must organise appropriate training, including the education on child wellbeing and human rights. Juveniles should benefit from the planned activities and programmes aimed at assisting them in their re-socialization.”<sup>17</sup>

As of recent, psychological workshops have been organised for the treatment of juvenile offenders. The workshops are developed and implemented by two psychologists from the Treatment Implementation Department.

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<sup>15</sup>Ombudsman’s Opinion no. 01-34//16-3 of 9<sup>th</sup> May 2016.

<sup>16</sup>Law on the Treatment of Juveniles in Criminal Proceedings (OG MNE no. 064/11 of 29<sup>th</sup> December 2011).

<sup>17</sup>UN Rules for the protection of juveniles deprived of their liberty, Basic Principles.

The NPM team established that, generally speaking, in the work with minors no special forms of treatment were applied although specific psychological and psychosocial features of juvenile offenders make them particularly sensitive to deprivations and their placement in an institution calls for the necessity of application of special form of treatment.

“Besides the services accessible to all the inmates, the prison management is obliged to make sure that juvenile inmates have access to social, psychological and educational services, religious and recreational or appropriate programmes available to juveniles in the community.”<sup>18</sup>

Not a single prisoner serving the term of juvenile imprisonment, after coming to the prison, had continued his/her education nor had they been informed how they could do that.

Various authors underline individual psychological treatment as being of particular importance in the process of psychological transformation of the personality of juvenile offenders. Special attention is paid to the education of juveniles, organisation of appropriate teaching activities, vocational training, organisation of pastime, individual psychotherapy and group work. The experience has shown, and the researches have corroborated the existence of the causal link between the provision of conditions for a juvenile offender within an institution to practice sport, music and similar activities and positive changes in his/her personality, i.e. his/her actual rehabilitation. Organising prisoners' pastime with useful activities enables the development of their skills and positive habits, reduces their tensions and frustrations and brings certain level of freshness into their lives.

#### **4.3.9. Treatment Implementation Department Personnel**

There are 13 employees (instructors) in the Treatment Implementation Department: one legal expert, two sociologists, four psychologists, two Philosophy professors, two special pedagogues, one Physical Education teacher and one pedagogue. Twelve treatment officers are entrusted with the tasks of treatment and they are in charge of the inmates' rehabilitation collectives, while one treatment officer is in charge of sports and cultural activities of the inmates. The Head of the Department is a special pedagogue.

On average, one treatment officer is in charge of 50 inmates, only the groups are of unequal number and range from 40 to as many as 70 inmates in one rehabilitation collective. It can be noticed that the number of inmates per one instructor is too large in some cases, as well as that the distribution is uneven from the point of view of both instructors and inmates. Certain rehabilitation collectives have about thirty inmates (for example A1, A2, C), while in others the number ranges from around 60 to around 70 inmates (for example D1, D2). Therefore, the treatment officers do not have equal share of workload, while on the other hand the inmates do not have equal access to the officers, nor can they devote equal attention to them. Within a rehabilitation group there are inmates serving the sentences of different length, those with different problems, habits and value systems, with different levels of education, different psychological profiles, characteristics, age etc. In such circumstances treatment officers do not have enough time to devote to each individual inmate, due to the fact that large portion of their working hours is dedicated to administrative tasks. Another worrying thing is the fact that in no pavilion are there special rooms where treatment officers could interview the inmates (for example A pavilion ground-floor, B pavilion ground-floor), and in such conditions no necessary privacy can be achieved, no testing can be done etc. The inmates in all collectives commended the officers and their relationship towards them.

The Ombudsman as the NPM reminds that staffing structure and competence of the employees constitute important success factors during the treatment. The existing job classification act prescribes that treatment officer's job can be held by a candidate holding university level degree, social sciences faculty, with one year of working experience and passed state exam. International standards prescribe that during the

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<sup>18</sup>European Prison Rules, Article 35.1

selection procedure special emphasis should be placed on the integrity of the employees, *humanity, competence and personal aptitude for the complex tasks they are to perform.*<sup>19</sup>

#### **4.3.10. Co-operation of the officials with NPM team**

The management of the Institution for Sentenced Prisoners (KPD) and all the present officials exercised full cooperation with the NPM team during their visit making it possible for them to perform their duty unhindered.

The employees proved to be cooperative, gave answers to all the questions being raised, enabled access to the premises and to the requested documentation. Unhindered interviews were made possible with the persons serving their terms, those who had expressed the interest in talking to the NPM team members.

Certain data – answers requested from the Head of the Treatment Implementation Department, which could not be obtained during the visit were submitted subsequently in writing. However, the submitted data are partial and incomplete (the number of implemented educational activities for 2015 and 2016, the number of requests lodged by the inmates and the promptness of responses, the number of inmates per trainer, the number of requests for assignments, criteria for prisoners' assignments...).

#### **4.3.11. Findings and recommendations**

In Podgorica Institution for Sentenced Prisoners (KPD) the practice of individual treatment of the inmates is not satisfactory, which is a reason for concern. This form of treatment is not planned, and therefore not implemented. In the prisoners' personal files, the sections related to: assignments, vocational trainings and education, cultural and sports activities and sections are mostly left empty. There are no lists of implemented individual, group and other treatment activities.

Penological work of the treatment Section comes mostly down to one meeting of the employee of the Personality Screening Department with the prisoner, for the purpose of conducting a necessary interview and determining the degree of risk on the basis of which recommendations are given for further treatment. These recommendations do not contain a single specific determinant, or an elaborated treatment individualization programme. In the subsequent segment, penological work of the Department consists of mainly brief interviews and consultations with the inmates conducted by the treatment officers, as well as of the administrative duties. Rehabilitation collectives are uneven in numbers, in certain cases even too big.

The absence of the individual treatment of prisoners has bad influence on the process of their rehabilitation and, naturally, on their re-socialisation. Most of the inmates are repeat offenders, which speaks about inefficient penological treatment, but also about the lack of support of the community for their successful reintegration. High quality treatment within the framework of the enforcement of criminal sanctions has got preventive effect on the phenomenon of recidivism. It is also necessary to organise and adequately implement various post-penal measures.

The NPM team notices that the majority of inmates spend their time in a non-structured way and that they are not involved in the activities that may stimulate the development of their pro-social habits.

Prisons should provide education, vocational training, occupation and any other necessary assistance with the purpose of re-socialisation and re-integration. This reflects the primary purpose of imprisonment, i.e. protection of society and reduction of repeated offences. In order to reap success, these programmes

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<sup>19</sup>European Prison Rules, Article 77

should be individualized. Prisons should recognize the key role personnel have in the rehabilitation of the inmates.<sup>20</sup>

Having become cognizant of the conditions, the Ombudsman as the NPM recommended to

### **Ministry of Justice**

1. To create conditions for the enforcement of the correctional measure “Referral to an institution”

### **Ministry of Justice – Institute for Enforcement of Criminal Sanctions:**

1. For minors serving imprisonment term, to provide premises which will be physically separated from those populated by adult inmates
2. For every prisoner, to prepare individual treatment plan and programme as well as to see to their proper implementation;
3. When working with the convicted minors, to apply the established standards–application of special form of treatment and ensuring further education;
4. To define and implement special treatment measures for the repeat offenders
5. To organise different forms of vocational training of prisoners - work and learn principle;
6. For rehabilitation collectives to become even in the number of inmates;
7. For missing premises to be provided in the pavilions so as to ensure unhindered work of treatment officers with the prisoners;
8. In accordance with penological standards, to create conditions for one treatment officer to work with one rehabilitation collective having up to 30 inmates;
9. To provide support for treatment officers in the performance of administrative duties, in order for them to be able to devote the necessary time to professional rehabilitation work;
10. To organise prisoners’ pastime in the form of sports, educational and cultural activities;
11. For the Treatment Department to establish permanent cooperation with the institutions of importance for the delivery of post-penal assistance –Employment Agency and Social Work Centre.

## **B. FOLLOW-UP VISITS**

### **4.4. Police custody facilities**

#### **Identified situation**

According to the established Visits Plan for 2016, 16 follow-up visits were being undertaken of different units of the Ministry of Interior, as follows:

- Regional Police Units: Berane, Bijelo Polje, Herceg Novi, Budva, Bar and Pljevlja.
- Local Police Units: Cetinje, Kolasin, Danilovgrad, Mojkovac, Plav, Rozaje, Ulcinj, Kotor, Tivat and Zabljak.

The visits were unannounced and were carried out both during and outside working hours. The objective of these visits was to perceive the conditions and to assess the degree of compliance with the recommendations of the Ombudsman as the NPM, issued to the Ministry of Interior–Police Directorate in the Annual Report for the year 2015 and earlier reports. The follow-up visits included the premises for the interrogation of the arrested persons, as well as the inspection of the motor vehicles intended for the transport of the persons deprived of their liberty.

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<sup>20</sup>Revised Standard Minimum UN Rules for the Treatment of Prisoners from 2015

## **Berane Regional Police Unit**

On the occasion of the visit to Berane Regional Police Unit, two male persons were found in the police custody, kept there according to the Order of the Basic State Prosecution. These persons had a copy of the information sheet for a detained person on them. Having been asked by the NPM team about the attitude of the police officers towards them, if they had been informed of the right to notify a third person close to them of their deprivation of liberty and of the right to hire a lawyer, they responded: that the attitude of the police officers had been more than correct, and with regards to other two questions their answers were positive.

In the period from 1<sup>st</sup> January to 25<sup>th</sup> October 2016, the total of 121 persons were deprived of liberty in Berane Regional Police Unit, 11 of whom were detained, while 16 persons were summoned in the capacity of citizens.

The follow-up visit found that:

**The following Ombudsman's recommendation had not been complied with (from the 2015 report):**

- provide regular hygienic conditions in the sanitary area.

**Below is a list of other Ombudsman's recommendations issued in the previous reports that had not been complied with:**

- to provide full CCTV coverage of the section of the staircase leading towards the custody facility;
- to install drinking water taps with washbasins in the custody facility, and
- to provide adequate natural lighting.



## **Bar Regional Police Unit**

On the occasion of the visit to Bar Regional Police Unit one person was found in the police custody. This person had a copy of the information sheet for a detained person on him. Having been asked by the NPM team about the attitude of the police officers towards him, he responded that it was professional. Having been asked if he had been informed of the right to notify a third person close to him of his deprivation of liberty and of the right to hire a lawyer, he gave a positive answer.

In the period from 1<sup>st</sup> January to 30<sup>th</sup> November 2016, the total of 548 persons were deprived of liberty, 99 of whom were detained, while 336 persons were summoned in the capacity of citizens.

The follow-up visit found that:

**The following Ombudsman's recommendation issued in previous reports had not been complied with:**

- For custody premises to be aligned with the CPT standards with regards to the surface area and dimensions.

### **Pljevlja Regional Police Unit**

On the occasion of the visit to Pljevlja Regional Police Unit, no person was found in the custody area.

In the period from 1<sup>st</sup> January to 4<sup>th</sup> November 2016, the total of 145 persons were deprived of their liberty, 4 of whom were detained and 25 persons were summoned in the capacity of citizens.

The follow-up visit found that:

**Ombudsman's recommendation from the 2015 Report had been complied with:**

- heating installed in the custody area.

**The following Ombudsman's recommendation from the previous reports had not been complied with:**

- for custody premises to be aligned with the CPT standards with regards to the surface area and dimensions.

### **Herceg Novi Regional Police Unit**

On the occasion of the visit to Herceg Novi Regional Police Unit, no person was found in the custody area.

In the period from 1<sup>st</sup> January to 7<sup>th</sup> December 2016, the total of 256 persons were deprived of their liberty, 30 of whom were detained, and 2111 persons were summoned in the capacity of citizens.

The follow-up visit established that:

**The following Ombudsman's recommendations issued in the previous reports had not been complied with:**

- for custody premises to be aligned with the CPT standards with regards to the surface area and dimensions;
- to provide full CCTV coverage of the section of the staircase leading towards the custody area.

### **Budva Regional Police Unit**

On the occasion of the visit to Budva Regional Police Unit, no person was found in the custody area.

In the period from 1<sup>st</sup> January to 21<sup>st</sup> October 2016 the total of 383 persons were deprived of their liberty, 55 of whom were detained. This centre does not keep the records of the summoned persons.

The follow-up visit found that:

**The following Ombudsman's recommendations from the previous reports had not been complied with:**

- for custody premises to be aligned with the CPT standards with regards to the surface area and dimensions;
- to provide full CCTV coverage of the section of the staircase leading towards the custody area.

The NPM team noticed that artificial lighting in the sanitary area was out of order, that there were doors missing on both WCs separated by means of a partition wall, which is not in line with the standards, since it interfere with the privacy of the detainees who use the facilities.



### **Bijelo Polje Regional Police Unit**

On the occasion of the visit to Bijelo Polje Regional Police Unit, no person was found in the custody area.

In the period from 1<sup>st</sup> January to 11<sup>th</sup> October 2016, the total of 141 persons were deprived of their liberty, 70 of whom were detained, and 356 persons were being summoned in the capacity of citizens.



**The following Ombudsman's recommendation was complied with (issued in the 2015 Report):**

- regular hygiene maintenance has been secured in the sanitary area;

**The following Ombudsman's recommendation issued in the previous reports was complied with:**

- custody premises aligned with the CPT standards with regards to the surface area and dimensions.

### **Cetinje Local Police Unit**

On the occasion of the visit to Cetinje Local Police Unit, no person was found in the custody area.

In the period from 1<sup>st</sup> January to 1<sup>st</sup> August 2016 the total of 73 persons were deprived of their liberty, 12 of whom were detained, and 40 persons were being summoned in the capacity of citizens.

The follow-up visit found that:

**The following Ombudsman's recommendations issued in the previous reports had not been complied with:**

- custody premises to be aligned with the CPT standards with regards to the surface area and dimensions;
- provide full CCTV coverage of the corridor leading towards the custody area.

### **Kolasin Local Police Unit**

On the occasion of the visit to Kolasin Local Police Unit, no person was found in the custody area.

In the period from 1<sup>st</sup> January to 5<sup>th</sup> September 2016, the total of 80 persons were deprived of their liberty, 13 of whom were detained. The Department keeps no record on the summoned persons.

The follow-up visit found that:

**The following Ombudsman's recommendations (from the 2015 Report) had been complied with:**

- regular hygiene maintenance has been secured in the sanitary area;
- artificial lighting has been secured in the custody area.

**Another Ombudsman's recommendation issued in the previous reports that has been followed through is the following one:**

- Electrical switchboard enclosure locking has been secured.

**The following Ombudsman's recommendations issued in the previous reports have not been followed through:**

- custody premises to be aligned with the CPT standards with regards to the surface area and dimensions;
- provide full CCTV coverage of the staircase leading from the on-duty premises to the custody area and of the small corridor in front of these areas;
- provide natural lighting in the room number 1.

### **Danilovgrad Local Police Unit**

On the occasion of the visit to Danilovgrad Local Police Unit, no person was found in the custody area.

In the period from 1<sup>st</sup> January to 26<sup>th</sup> July 2016, the total of 91 persons were deprived of their liberty, 6 of whom were detained. The Department keeps no record of the summoned persons.

**The Ombudsman's recommendation issued in the previous reports that was followed through is the following one:**

- custody premises have been aligned with the CPT standards with regards to the surface area and dimensions.

### **Mojkovac Local Police Unit**

On the occasion of the visit to Mojkovac Local Police Unit, no person was found in the custody area.

In the period from 1<sup>st</sup> January to 5<sup>th</sup> September 2016, the total of 72 persons were deprived of their liberty, 8 of whom were detained, and 25 persons were summoned in the capacity of citizens.

The follow-up visit found that:

**The following Ombudsman's recommendation (from the 2015 Report) had not been complied with:**

- natural lighting in the custody area has not been secured

**The following is another Ombudsman's recommendation from the previous report that was not followed through:**

- custody premises have been aligned with the CPT standards with regards to the surface area and dimensions.

### **Plav Local Police Unit**

On the occasion of the visit to Plav Local Police Unit, no person was found in the custody area.

In the period from 1<sup>st</sup> January to 8<sup>th</sup> November 2016, the total of 40 persons were deprived of their liberty, 6 of whom were detained, and 70 persons were summoned in the capacity of citizens.

The follow-up visit found that:

**The following Ombudsman's recommendation from the previous reports had been partially complied with:**

- CCTV system covered the entrance to the Department building; however the staircase leading from the on-duty area to the custody area has remained without coverage.

**The following Ombudsman's recommendation issued in the previous report has not been followed through:**

- custody premises are to be aligned with the CPT standards with regards to the surface area and dimensions.

### **Rozaje Local Police Unit**

On the occasion of the visit to Rozaje Local Police Unit, no person was found in the custody area.

In the period from 1<sup>st</sup> January to 25<sup>th</sup> October 2016, the total of 69 persons were deprived of their liberty, 27 of whom were detained, and 82 persons were summoned in the capacity of citizens.

**The following Ombudsman's recommendation issued in the previous reports has been partially complied with:**

- CCTV system covered the entrance to the Department building as well as the access corridor leading to the custody area, while the central corridor leading towards the custody area has remained without coverage.

**The following Ombudsman's recommendation from the previous reports has not been followed through:**

- custody premises are to be aligned with the CPT standards with regards to the surface area and dimensions (cell no. 1).

The NPM team noticed that the custody area was in poor condition, that the walls and the paint were damaged by humidity. Compared to the previous visit of the NPM team, the condition was significantly worse, which is a reason for concern.



### **Ulcinj Local Police Unit**

On the occasion of the visit to Ulcinj Local Police Unit, no person was found in the custody area.

In the period from 1<sup>st</sup> January to 7<sup>th</sup> November 2016, the total of 177 persons were deprived of their liberty, 4 of whom were detained. The Department keeps no records on the summoned persons.

The NPM team noticed that the hygiene in the custody premises is not satisfactory.

The follow-up visit found that:

**The following Ombudsman's recommendations issued in the previous reports had not been complied with:**

- custody premises are to be aligned with the CPT standards with regards to the surface area and dimensions;
- ensure CCTV coverage of the staircase leading from the on-duty premises to the custody area and the small corridor in front of this area;
- ensure regular maintenance of hygiene in the sanitary area.

### **Kotor Local Police Unit**

On the occasion of the visit to Kotor Local Police Unit, no person was found in the custody area.

In the period from 1<sup>st</sup> January to 21<sup>st</sup> December 2016, the total of 206 persons were deprived of their liberty, 47 of whom were detained, and 176 persons were summoned in the capacity of citizens.

**The following Ombudsman's recommendations issued in previous reports were not complied with:**

- custody premises are to be aligned with the CPT standards with regards to the surface area and dimensions;
- secure adequate natural lighting in the custody area.

### **Tivat Local Police Unit**

On the occasion of the visit to Tivat Local Police Unit, one male person was found in the custody area. Having been asked by the NPM team about the attitude of the police officers towards him, he said that their attitude was a professional one. When asked if he had been given the possibility to notify a third party of his deprivation of liberty and to hire a lawyer, he gave positive answers.

In the period from 1<sup>st</sup> January to 21<sup>st</sup> December 2016, the total of 125 persons were deprived of their liberty, 17 of whom were detained. The Department keeps no records on the summoned persons.

**The following Ombudsman's recommendation issued in the previous reports was not complied with:**

- custody premises are to be aligned with the CPT standards with regards to the surface area and dimensions.

### **Zabljak Local Police Unit**

On the occasion of the visit to Zabljak Local Police Unit, no person was found in the custody area.

In the period from 1<sup>st</sup> January to 12<sup>th</sup> September 2016, the total of 33 persons were deprived of their liberty, 4 of whom were detained, while 65 persons were summoned in the capacity of citizens.

**The following Ombudsman's recommendations (issued in the 2015 Report) were followed through:**

- regular maintenance of hygiene has been secured, and
- artificial lighting in the custody area has been provided.

**The following Ombudsman's recommendation was not complied with:**

- provide heating in the custody area.

**The following Ombudsman's recommendation issued in the previous reports was followed through:**

- full CCTV coverage secured—both staircase and external access area

**The following Ombudsman's recommendation issued in the previous reports was not complied with:**

- custody premises are to be aligned with the CPT standards with regards to the surface area and dimensions.

## **Final conclusions**

On the basis of the undertaken follow-up visits of the Police Directorate regional and local units aimed at checking the compliance with the recommendations issued in the 2015 NPM Report, the Ombudsman concludes that two (2) out of the total of six (6) recommendations were complied with. One was issued to Kolasin and Zabljak Local Police Units and it referred to the provision of artificial lighting in the custody areas. The other recommendation asking for all persons deprived of their liberty to be provided with the sheet on the rights of the persons deprived of their liberty was issued to all regional and local units.

Two (2) recommendations were only partially complied with. One was issued to Berane, Bijelo Polje and Pljevlja regional police units and to Kolasin and Zabljak Local Police Units referring to regular maintenance of hygiene in the sanitary areas. It has been fully complied with by Bijelo Polje Regional Police Unit, Kolasin and Zabljak Local Police Units. The recommendation has not been complied with by Berane Regional Police Unit. The second recommendation issued to Pljevlja Regional Police Unit and to Zabljak Local Police Unit referred to the provision of heating in the custody areas. Pljevlja Regional Police Unit followed this recommendation through, while Zabljak Local Police Unit failed to do so.

Two (2) recommendations were not complied with. One referred to the provision of natural lighting in the custody area in Mojkovac Local Police Unit and in one room in Kolasin Local Police Unit.

As regards the other recommendation asking for proper meal (something more than just a sandwich) to be provided to the persons deprived of their liberty for the period longer than 24 hours:

- **no regional or local unit has complied with the same.**

The Ombudsman as NPM pursuant to the follow-up visits also concludes that certain Police Directorate regional and local units have complied with certain number of recommendations issued in the previous reports (2013 and 2014. god), as follows:

- Bijelo Polje Regional Police Unit – custody areas aligned with the CPT standards with regards to the surface area and dimensions.
- Danilovgrad Local Police Unit- custody areas aligned with the CPT standards with regards to the surface area and dimensions.
- Zabljak Local Police Unit –full CCTV coverage provided of the non-covered areas (staircase and external access to the Unit building).
- Kolasin Local Police Unit—electrical switchboard enclosure locking has been secured making it therefore inaccessible to unauthorized persons.

Regular and follow-up visits also found that the custody areas were aligned with the CPT standards with regards to the surface area and dimensions in the following regional police units: Niksić, Bijelo Polje and Berane, as well as in Danilovgrad Local Police Unit. In Pluzine Local Police Unit there is one custody cell, therefore there is no cell for persons of different gender. In the Regional Police Units in Bar, Budva, Pljevlja and Herceg Novi and in 11 Local Police Units custody areas have not yet been aligned with the CPT standards, i.e. the issued recommendation has not been complied with. In December 2016, the

Ombudsman as the NPM lodged the initiative to the Ministry of Interior<sup>21</sup> for the amendment of the Article 2 of the Regulation on the conditions to be met by custody premises ("OG MNE", no. 52/12). However, the Ministry failed to act in accordance with the obligation from the Article 42 of the Law on Ombudsman of Montenegro ("OG MNE" no. 42/11 and 32/14), which is a reason for concern.

The Ombudsman expects that the Ministry of Interior–Police Directorate will without delay get down to complying with the recommendations issued in this report for the regional police units in Podgorica and Nikšić and for Pluzine Local Police Unit.

Also, the Ombudsman urges the Ministry of Interior–Police Directorate to intensify the activities on the following through of the recommendations from the previous reports that have not yet been complied with, with regards to the regional police units in Berane, Herceg Novi, Budva, Bar, Pljevlja and to the Local Police Units in Cetinje, Kolasin, Mojkovac, Plav, Rozaje, Ulcinj, Kotor, Tivat and Zabljak.

It is necessary for the Ministry of Interior and the Police Directorate to submit the report to the Ombudsman on the activities and measures being undertaken with a view to complying with the issued recommendations.

#### **4.5. Follow-up visit of “Bijelo Polje“ Old People’s Home**

In July 2015, the Ombudsman as the NPM perceived the observance of the human rights of the elderly, inspected the accommodation and other conditions in “Bijelo Polje” Old People’s Home, compiled the report for the Ministry of Labour and Social Welfare and to the Home itself issuing two recommendations for the improvement of conditions there.

In November 2016, follow-up visit was undertaken with a view to determine the extent of observance of the issued recommendations.

Asserted condition:

On the occasion of the follow-up visit it was established that the issued recommendations had not been complied with.

##### **This is a reminder of the non-complied recommendations:**

- to mount awnings in the courtyard for the protection from sunlight and precipitation;
- to secure conditions for the accommodation of demented persons capable of moving.

Time spent in fresh air is of great importance in everybody’s life, for the elderly in particular. It is therefore necessary to secure conditions for the beneficiaries to have unhindered stay, rest and walk in the fresh air. There is evident shortage of green, grassy areas, pathways for the beneficiaries who use wheelchairs. Commendable are the efforts invested by the personnel in making more accessible the outdoor areas even when weather conditions are not favourable.

With regards to the conditions for the accommodation of the demented disabled persons, official reports show that 44 million people worldwide suffers from dementia, and it is estimated that with time this number will become considerably higher and that by 2050 there will be about 135 million cases.

On the occasion of the visit, a series of interviews were conducted.

The beneficiaries expressed their praises and underlined professionalism and the attitude of dedication of the personnel towards them. However, they complained of poor heating and of the fact that it was not on all

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<sup>21</sup>The Initiative is annexed to this Report

day long. The NPM team drew the management's attention to this, having in mind that this category of people is particularly sensitive to inadequate room temperature.

During the visit, the NPM team found a beneficiary making model houses of different sizes out of cardboard (up to 1m). After having talked to him it was concluded that he spent up to six hours in that area within the framework of the programme of occupational activity and that he considered this "a good treatment making him also a useful member of the community." Occupational activity unfolds through the activities best suited to the abilities, needs and interests of the beneficiaries. There are different clubs, like literary, arts, creative and others. In the corridors of the Home there are paintings and other works of art made of various materials made and put on display by the beneficiaries.

According to the beneficiaries' statements the following recreational activities are organised: excursions, walks, numerous events, promotions, performances given by the children from the neighbouring elementary and secondary schools, various joint and individual celebrations (birthdays, religious holidays etc.)

A novelty in relation to the previous visit is a ground floor dining area equipped with contemporary, modern inventory, leather chairs and a long dining table to sit about 30 persons.

However, the floors in the corridors are in a bad shape and they need to be urgently replaced as the beneficiaries might fall and be injured.



#### **4.6. Follow-up visit to Special Psychiatric Hospital in Kotor**

In July 2015, the Ombudsman as the NPM undertook regular visit to the Special Psychiatric Hospital in Kotor, followed by the follow-up visit in December 2016 to examine the compliance with the recommendations issued in the Annual NPM Report for the year 2015.

On the basis of the inspection it was concluded that four recommendations had been complied with, while a large number had either not been complied with or had been partially complied with.

**a) The following recommendations were complied with:**

- Adequate hygienic conditions were secured in the rooms—damp proofing;
- Privacy was secured in the sanitary areas of the acute male and female wards;
- Sufficient quantity of mattresses, blankets and linen was provided;
- Missing clothing provided in the acute male and female wards.

The following is the reminder of:

**b) recommendations partially complied with:**

- to provide adequate hygienic conditions in all sanitary areas – in the acute male ward VII aluminium doors were mounted to the WC, while the work on laying ceramic tiles was ongoing;
- partial replacement of the worn out woodwork in the acute male ward.

**c) recommendations not complied with:**

- to provide special room for patients' fixation in the Alcohol Addiction Treatment Ward;
- to provide sufficient number of psychoactive substances detection tapes in the Psychoactive Substances Addiction Treatment Ward;
- to enhance hygiene and replace worn out sanitary equipment in the acute male and female wards, as well as in the forensic ward sanitary areas;
- to provide heating in the rooms of the chronic male patients' closed ward.

The Ombudsman also reminds of the non-complied with recommendations from the previous reports (2013).

For the Ministry of Health and Special Psychiatric Hospital

- in accordance with the regulations, to undertake measures on assessing the justification of the further stay of the so called social patients in the Hospital.

For the Ministry of health and the Ministry of Justice

- to undertake the necessary measures for moving the forensic ward out of the Hospital

Conversation was held with the management of the Special Psychiatric Hospital with regards to the non-complied with recommendations. The recommendations that are repeated from one year to another, which are related to the stay and treatment of psychiatric, but also of socially vulnerable patients, as well as those related to the undertaking of the necessary measures for the moving of the forensic ward are of systemic character and require big level of investment. The NPM team noticed that despite the efforts invested in the compliance with the recommendations, the main problem had been the lack of financial means and long-term tendering procedure.

## **V. INTERNATIONAL AND NATIONAL NPM ACTIVITIES**

### **5.1. Cooperation with the Subcommittee on Prevention of Torture**

In the reporting period, the Ombudsman of Montenegro unfortunately failed to establish the cooperation with the UN Subcommittee on Prevention of Torture. Due to the lack of funds for the translation of the NPM Work Report for the year 2015, the Report could not be forwarded to the Subcommittee.

### **5.2. Participation at conferences, round table discussions and working meetings**

During the reporting year, the representatives of the Institution participated:



- in the training of police officers at the Police Academy in Danilovgrad on 19<sup>th</sup> and 20<sup>th</sup> April with the topic “Human Rights in the Context of the Use of Force while Arresting and Detaining Persons.”
- in the training of police officers at the Police Academy in Danilovgrad on 6<sup>th</sup> and 7<sup>th</sup> June with the topic “Observance of Human Rights in Accordance with CPT Recommendations.”
- An advisor to the Ombudsman from the National Torture Prevention Mechanism (NPM) participated at the regional conference on the prevention of torture in Western Balkan countries, which was held in Tirana. The conference “Torture prevention in the Balkans, exchange of best practice and experience” was organised by the Youth Initiative for Human Rights (YIRH) of Montenegro, Albanian Rehabilitation Centre for Trauma and Torture (ARCT), the YIRH from Serbia and International Rehabilitation Council for Victims of Torture (IRCT) from Denmark.
- to the panel discussion “Police Reform in the Context of Western Balkan EU Integration”, held in Podgorica in September.
- the Ombudsman and the associates went for a study visit to the Ombudsman of Sweden, within the framework of activities planned for the PREDIM project, funded by the EU and implemented by the Council of Europe.
- to the meeting of the South-East Europe NPM Network members in Salzburg on 21<sup>st</sup> and 22<sup>nd</sup> April 2016, where discussion topic was “Homes for the elderly and demented patients – standards in medical care and treatment based on deprivation of liberty.”
- to the meeting of the South-East Europe NPM Network members in Vienna on 11<sup>th</sup> and 12<sup>th</sup> October 2016, where discussion topic was “Homes for the elderly and demented patients – standards in medical care and treatment based on deprivation of liberty.”
- to the meeting of the South-East Europe NPM Network members in Belgrade, on 13<sup>th</sup> and 14<sup>th</sup> December 2016, where discussion topic was “Protection of human rights of refugees and migrants in South-East European countries – preventive approach.”
- At the initiative of the Ombudsman of Montenegro and the Ministry of Justice a conference was held in Podgorica in September on the occasion of the tenth anniversary as of the coming into force of the Optional Protocol to the UN Convention against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).
- In December a meeting was held with the representatives of the NGOs involved with the rights of the persons deprived of their liberty, at which they were invited to give their suggestions and to propose activities which might be covered in the procedure of developing the visit plan for the year 2017. The representatives from the following four NGOs responded to this invitation: Juventas, HRA (Human Rights Action), Građanska alijansa (Civic Alliance) and CEMI. No specific proposal for the visit plan was given at the meeting, but the opportunity was used for the exchange of opinions on several topics related to the joint field of interest and action.

The NPM members from the Institution participated at every South East Europe NPM network meeting; they also held a number of training sessions at the Police Academy in Danilovgrad with the topic of NPM mandate and the application of CPT standards. These lectures helped raise awareness on the absolute prohibition of torture, inhuman and degrading treatment or punishment, which is one of the tasks of the Ombudsman as the NPM. With a view to improving knowledge in the area of NPM, in the reporting year for

the PREDIM Project funded by the European Union and implemented by the Council of Europe, the Ombudsman participated at several activities organised within the framework of the Project.

## VI. ADDENDUM

### 6.1 Initiative towards the Ministry of Interior to amend regulations

Pursuant to the Article 18 paragraph 1 of the Law on Ombudsman of Montenegro ("OG MNE", no. 42/11 and 32/14), I hereby submit

#### INITIATIVE

For the amendment to the Article 2 of the Regulation on the Conditions to be met by the Custody Premises for Persons Deprived of Their Liberty ("OG MNE", no. 52/12)

#### Reasoning

Article 2 of the Regulation on the Conditions to be met by the Custody Premises for Persons Deprived of Their Liberty ("OG MNE", no. 52/12) prescribes that:

"The floor space of a single-occupancy custody cell may not be smaller than 5 m<sup>2</sup>, without equipment and sanitary facility. If the cell is intended to serve as a multiple-occupancy one, its floor space must be increased by 1 m<sup>2</sup> per each additional person. The height of the custody cell must be at least 2.5m.

Exceptionally, the following deviations are allowed from the paragraphs 1 and 2 above, on the occasion of the adaptation of the existing premises:

- 1) the floor space of the custody cell may be smaller by no more than 15%;
- 2) the height of the custody cell may be smaller by no more than 10%."

The Ombudsman of Montenegro by perceiving the overall condition in the Police Directorate custody premises, with regards to the observance of the European Committee for the Prevention of Torture (CPT) standards, established in the Reports of the National Preventive Mechanism that certain number of rooms in the custody facilities of the Police Directorate failed to meet the requirements with regards to the surface area and dimensions stipulated by the said standards, according to which "a single-occupancy cell should measure 7 m<sup>2</sup>, with at least 2m between the walls and at least 2.5m between the floor and the ceiling."

Also, the European Court of Human Rights has adopted this CPT standard as a referential one.<sup>22</sup>

In the Special Report on the condition of the custody premises of the Police Directorate, Information on the Police Directorate observance of Ombudsman's recommendations issued in the Special Report and in the Ombudsman's Work Report from 2011, the Ombudsman indicated that certain number of custody premises did not meet the requirements envisaged by the then valid Regulation on the conditions to be met by the custody premises ("OG RMNE", number 57/06). Article 3 of that Regulation prescribed that the "Custody premises must have adequate surface area, depending on the number of persons accommodated there.

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<sup>22</sup> In the judgement *Schebet v. Russia*, App.No.16074/07(2008), paragraphs 84-96 the Court found the violation of the Article 3 of the European Convention when one female person had been held for 34 days at the Domodedovo Airport in Moscow, in a cell having the surface area of 4m<sup>2</sup> [.....]. Such conditions are, according to the findings of the Court "inhuman and degrading." In the judgement *I. I. v. Bulgaria*, 44082/98, 9<sup>th</sup> June 2005, related to the conditions relative to the stay custody, the Court noted that the applicant had been detained for three days in a cell with the surface area of six square meters with another three to four detainees. The Court considers that the conditions in the detention he had been subjected to, constituted inhuman and degrading treatment in contravention of the Article 3 of the European Convention.

The surface area per one person may not be smaller than 5m<sup>2</sup>, with at least 2m between the walls, and at least 2.5m between the floor and the ceiling, so as to provide the appropriate air cubature."

According to the recommendations of the Ombudsman issued in the stated reports, which were based upon the CPT standards related to the dimensions and the surface area of custody premises, new Regulation was enacted on the conditions to be met by the custody premises ("OG MNE", no. 52/12, of 12<sup>th</sup> October 2012), which, although somewhat improved by the paragraph 1 and the addition of the paragraph 3, constitutes worse solution with regards to the alignment with the CPT standards, i.e. their derogation. If one is to add the fact that the custody area in Podgorica Regional Police Unit in 2010, in comparison to other regional and local Police units, were thoroughly aligned with the stated standards, one encounters a new problem –unequal conditions, and/or treatment of the persons deprived of their liberty in other regional and local Police units in the territory of Montenegro, which is unacceptable.

The Ombudsman concluded in the NPM Reports for 2014 and 2015 that a large number of custody premises (apart from Podgorica Regional Police Unit) had not met the requirements with regards to floor space and dimensions recommended by the CPT for police detention cells.

The enactment of the new Regulation on the conditions to be met by the custody premises from 2012, which in itself was in line with the conditions in the field, does not absolve the Ministry of Interior and the Police Directorate from the duty to align these premises with the CPT standards and to observe the Ombudsman's recommendations issued in the previous reports.

In relation to that, the provisions of the Article 2 of the Regulation need to be aligned with the international standards.