

Univesial Periodical Review

	Recommendation	Status of implementation June 2013
No. 1		<p>The practical implementation of the Convention on the rights of persons with disabilities in practice is difficult.</p> <p>Children with special needs face difficulties to achieve the right to education in regular schools (inclusive education), this is due to the limited number of defectologists in the schools or due to the pressures from the parents of other children.</p> <p>The persons with special needs still face difficulties to achieve their right to work in the trade associations but also in the public and state administration.</p> <p>In most of the police stations the National Preventive Mechanism found that no accession ramps were installed at the entrance of the police stations and at the entrance of the rooms for detention. It is a worrying fact that persons with special needs are accommodated in prison where there is no adequate conditions for their everyday life. This conduct and the lack of undertaking appropriate preventive measures the NPM finds as extremely humiliating and inhuman and directly in opposite to the obligations that derive from few international acts: the European Convention for human rights and the Convention on the rights of persons with disabilities: „<i>The countries signatories ensure that in case persons with disabilities are deprived of freedom, they have equal rights as the others in accordance with the international human rights and are treated in accordance with the aims and provisions of this Convention.</i></p>
No. 2		
No. 3		

No. 4		
No. 5		<p>Status B with recommendations that should be fulfilled by the Ombudsman. An opinion was submitted to the Inter-sectoral body for human rights for the need of amending and supplementing the Law on Ombudsman that will embrace the Paris principles (including promotion, securing greater pluralism and independence). The promotion of human rights has not been included yet in the Law on Ombudsman which is part of the Paris principles and a condition for granting status A. Also, there is a need for adjusting the law to the Optional protocol to the Convention against torture. The Ombudsman should get greater independence in order to strengthen its confidence by separating its expert service from the other state employees.</p> <p>With the amendments of the law on Ombudsman in 2009 three new departments have been established: Department for non-discrimination and adequate and equitable representation, Department for children rights and rights of persons with special needs and the National Preventive Mechanism. By enacting the amendments of the Law on Ombudsman, the Rule book and the methodology for performing prevention from torture were adopted.</p> <p>For 2013 the NPM has a budget in amount of 520.000,00 MKD which secured multidisciplinary approach by engaging external expertise. The NPM is composed of two counselors and there is a need for increasing and strengthening the human resources with aim of full implementation of the mandate envisaged by the OPCAT.</p>

No. 6		
No. 7		

No. 8		
No. 9		<p>In the period 2011-june 2013 the NPM conducted 50 preventive unannounced visits to places of deprivation of liberty and 15 follow up visits. Of particular concern in the penitentiary-correctional facilities the NPM found the partial application of the provisions from the Law on execution of sanctions, as well as the overcrowdness, the legal limitation of accommodation of maximum 5 persons in one collective room is not respected. Also, as inhuman are found the conditions in the facilities for solitary confinement. The persons accommodated in the detention facilities enjoy the minimum standards where sometimes they even stay for 23 hours. On a demand submitted by the NPM the facilities for solitary confinement in the juvenile prison Ohrid and two units in the prison Idrizovo have been renovated. There is inconsistencies in the way the medical protection in the penitentiary-correctional facilities is kept, the provisions from the Law on medical protection are not respected, the access and the quality of the services are not satisfactory and not always the relation doctor-patient is established. On the recommendation that there is a need of permanent doctor, as well as increase in the number of the employees in the security sector and resocialization sector, it was responded that it depends on the finances and the agreement from the Ministry on Finances. In the smaller prisons the conditions and the achievement of the rights is possible but that situation is more difficult in the bigger prisons and in the prison Skopje where there is no factual space nor financial means. The persons deprived of liberty mainly complaint about the food, the medical protection but also the way they are treated by the personnel. Also, the question regarding the right to education is still open while as the level of work engagement is on a very low and unsatisfactory level. The educational-correctional facilities do not satisfy the necessary international standards, the persons are accommodated in inappropriate conditions and education is not provided for them.</p> <p>From the work on complaints of the Ombudsman, it is found that there are cases of selective classification of detained persons, also there is inconsistencies in the Rule book</p>

		<p>for arrangement, classification and rearrangement of detained persons. The unprofessional conduct and the insufficient engagement of the security services lead to conflict situations among the persons deprived of liberty by which the personal safety of the detainees and the safety of the facilities were questioned. The educational-correctional process do not satisfy its function while as the insufficient staffing of the services and the lack of financial means presents a serious problem to these facilities. It is of particular concern the fact that there are still cases of torture.</p> <p>The total number of complaints concerning penitentiary-correctional facilities: 2008–55, 2009-34, 2010-395 ,2011-352, 2012-278, out of which for torture and other types of inhuman treatment in prison are 2008-1, 2009-7, 2010-21, 2011-16 and 2012- 26.</p>
No. 10		There is a need for adjustment of the Law on Ombudsman with the Optional protocol to the Convention against torture and other cruel, inhuman and degrading treatment or punishment.
No. 11		The NPM submits its report to the Subcommittee for prevention of torture (submitted for 2011, while as for 2012 it will be submitted once the official translation in English language is completed)
No. 12		.
No. 13		

		<p>The Ombudsman according to the Constitution of the Republic of Macedonia pays special attention to safeguarding the principle of nondiscrimination in the bodies over which is responsible to act. This constitutional provision has been operationalized in the Law on Ombudsman and thus the Ombudsman shall take actions and measures to protect the principle of nondiscrimination in government bodies at central and local level.</p> <p>If during its acting the Ombudsman finds discrimination made by certain acts or documents, he can give recommendation, indication, opinion and suggestion to the state administration, local government and to the bodies and organizations with public competence.</p> <p>In respect to the work on complaints, the Ombudsman finds that discrimination is present in all segments of the work relations and the most frequent basis for discrimination is the ethnic belongings.</p> <p>In 2012 the Ombudsman undertook range of activities for promotion and protection of the citizens from discrimination. In that direction the institution implemented projects as: the theater play "Same in a different way" shown in few occasions, which in itself contained the most frequent ways of possible discrimination; on a national level the institution implemented a TV show dedicated to discrimination during which the citizens had the opportunity to inform them selves of all possible ways of discrimination as to pose direct questions to the Ombudsman; the Institution printed a brochure entitled: "Protection from discrimination" which contains a description of the basic terms and forms necessary for recognizing discrimination and the mechanisms for protection, the brochure also contains the international standards and national regulations for protection from discrimination, as well as a leaflet for protection from discrimination in seven languages.</p> <p>In the last years various round tables took place in many towns of the Republic of Macedonia. At those meetings the standards and the procedures for protection from discrimination as well as the implementation of the principle for adequate and equitable representation were presented. These round tables were mainly organized for the employees of the public administration where they work and implement laws and other regulations. It should be noted that the communication with the Commission for prevention from discrimination has started in order to coordinate the cases within this area.</p>
No. 14		
No. 15		

No. 16		<p>The Ombudsman within its constitutional and legal competences is authorized to undertake measures for protection of the principle for equality between genders. Aside of the work on individual complaints, in accordance with the article 28 and 29 from the Law on Ombudsman, he is authorized to follow the situation with the respect of this principle.</p> <p>The Ombudsman in relation with the gender equality particular attention pays to the total number of employees on the ground of gender, as well as the gender structure in terms of the managing positions. The data have shown that from the total number of employees in the institutions, 56771 are men or 52,94% while as 50467 are women or 47,06%. On the management level the representation of men is 52,71% while as of women is 47,29%.</p>
No. 17		<p>In order to create conditions for equality among citizens, in particular in terms of gender equality and the prohibition of discrimination on grounds of gender, the Law on equal opportunities and equal treatment for women and men regulates the basic and special provisions for establishment of equal opportunities and equal treatment of women and men in all spheres of the social living. In this way the discrimination on the ground of gender in the public and the private sector is forbidden, among else in the area of employment.</p> <p>According to the article 15 from this law, the Ombudsman is authorized in the frames of its legal competences to care about the implementation of the principle of equal opportunities of women and men and to secure protection when somebody's rights are taken or limited by the bodies and organizations where he is authorized to act. Also, according to the National plan for action for gender equality 2007-2012 for implementation of the strategic goal "The Human Rights and the Woman", the Ombudsman among others has authority to act.</p>
No. 18		

No. 19		
No. 20		
No. 21		<p>During 2012 the NPM conducted visits to few detention units in the penitentiary-correctional facility of semi-open type. From the visits the Ombudsman-NPM concluded that the international and national standards in terms of material conditions are not respected and fully implemented in practice and has identified bigger number of inconsistencies and irregularities. The overcrowding remains one of the bigger problems in the detention units. The persons deprived of liberty and the persons placed in solitary confinement get their meals in the same room where they are and often the hygiene is on a very low level, this may lead to a potential risk upon their health. The NPM considers this practice as humiliating, having in mind the weak and unsatisfactory material conditions in these premises.</p> <p>As the biggest problem the NPM points the limited and very restrictive area for movement of the persons deprived of liberty. Namely these persons the biggest part of their everyday spend in their rooms for sleeping (even 22 hours), while as only one to two hours they spend outside their rooms. Spending time outside for less than 2 hours is contrary to the legal provisions that impose a minimum outdoors stay of the detained persons of 2 hours per day. Such recommendations the Ombudsman-National Preventive Mechanism submitted to several correctional-penitentiary institutions reminding them that they should always and mandatory respect the right for an outdoors stay in accordance with the Law on Sanctions where the limitation to one hour outdoor stay refers only to those who serve the solitary confinement but not for the other categories of persons deprived of liberty.</p> <p>The persons deprived of liberty very rarely or not at all are visited by judges, the president of the basic court or other judge, an obligation deriving from the Law on execution of</p>

		sanctions and the Law on criminal procedure. The new house rules for detained persons are complicated for implementation in practice due to the limited opportunities for the detention units.
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No. 23		
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No. 27		<p>The Ombudsman continued with the trainings and round tables in particular for the police and the prison personnel. There were round tables on “The Ombudsman-The National Preventive Mechanism” held in Bitola, Shtip and Tetovo. Representatives from the police stations, the units for internal control, the penitentiary-correctional facilities, the special institutions and the psychiatric hospitals the local self-government, the state universities and the civil society participated.</p> <p>The NPM conducted two trainings in the Center of the Ministry of Internal Affairs on the role of the Ombudsman in protection of the human rights as well as the National Preventive Mechanism (16 and 25.04.2013).</p>
No. 28		<p>On a demand of the NPM 5 expert-instructoral monitorings were conducted and steps were taken upon some of the given recommendations.</p> <p>When visiting the correctional-penitentiary facilities (CPF) in the Republic of Macedonia, it is found that the Commission for monitoring of the CPF is not functioning and so far has not conducted a single visit. During its visits the NPM faced a satisfactory and constructive cooperation by the personnel and had unlimited access to all premises, objects and installations by its own choise, as well as conducted interviews with persons deprived of liberty by its own random choise, without a presence of the prison staff or witnesses. In no case the access of the NPM team was limited nor the freedom to interview persons.</p>

No. 29		<p>The NPM found inefficient investigation of the prison management when there are doubts on physical insult or violence (for prisons). The NPM established an unlimited communication with the Ministry for Internal Affairs through maintaining regular working sessions.</p> <p>In 2011 the Ombudsman submitted 1) criminal submission against 5 officials in the Prison Tetovo-a demand for investigating criminal responsibility is filed to the Public Prosecution Office Tetovo, 2) criminal submission against 2 personnel in Skopje-The Public Prosecution Office Skopje rejected the case, 3) A demand for investigating disciplinary responsibility for one personnel in Skopje, the same is sanctioned and has a termination of the employment.</p> <p>In 2012 1) criminal submission against 4 personnel in the prison Bitola, a demand was submitted by the Ombudsman to the Public Prosecution Office in Bitola for investigating a criminal responsibility 2) after a submitted information by the Ombudsman to the Ministry of Justice, a procedure for disciplinary responsibility was initiated against 4 personnel in the prison Skopje and the same are sentenced by decreasing their salaries.</p>
No. 30		<p>The NPM found that the Annual programme of the Government of the Republic of Macedonia for reconstruction of the penitentiary-correctional facilities and the educational-correctional facilities is not implemented in accordance with the envisaged plans, part of the activities are transferred to 2013. The material conditions in the admission units of the penitentiary-correctional facilities are different and depend on the size of the facility and the accommodation capacities. In practice there are cases when the admission unit is not physically segregated from the rest of the units while as in some of the penitentiary-correctional facilities, this unit is only one room for accommodation usually part of the semi-open and/or open unit of the detention part of the prison. It is noticed that the material conditions in the detention units are worse in comparison to the accommodation in the semi-open/open units with exception of the penitentiary-correctional facility "Idrizovo"-Skopje where the material conditions in the other units are of same or even greater concern. The level of work engagement in the penitentiary-correctional facilities in the Republic of Macedonia is on a very low and unsatisfactory level. Having in mind the goal of the resocialization the NPM found that only those persons deprived of liberty who have easier treatment (semi-open or open treatment) are usually given the chance to work and to gain working skills.</p> <p>In most of the penitentiary-correctional facilities visited by the NPM in 2012 the persons deprived of liberty and the persons who serve detention who were interviewed, did not complain about torture or other cruel, inhuman or degrading treatment by the personnel. In those penitentiary-correctional facilities where there were complaints, the NPM found that there is a lack of efficient investigation when there is a ground for doubts for violence or physical maltreatment.</p>

No. 31		From the conducted visits in the penitentiary-correctional facilities and the educational-correctional facilities in 2012 the NPM found that the material conditions in the facilities do not or partially satisfy the national and international standards, while as the Law on execution of sanctions, the by-laws and the protocols are not implemented fully in practice.
No. 32		
No. 33		<p>The Law on juvenile justice requests special premise for detention of juveniles, but the NPM in none of the police stations found that such premise exist, only two stations have separate rooms for interviewing juveniles.</p> <p>When visiting the educational-correctional facilities the NPM gave recommendations for violence over juveniles by the security services, no such complaints were given in the juvenile prison. About these complaints the NPM informed the management of the educational-correctional facilities, the Directorate for execution of sanctions and a case was open in the Ombudsman Office. On a demand of the Directorate for execution of sanctions in the educational-correctional facility Tetovo a post box was open for complaints forwarded to the Ombudsman.</p> <p>In accordance with the Law on execution of sanctions the persons deprived of liberty execute their sanction in a juvenile prison in a special facility for juveniles. Our legal provisions when defining the sentence-jvenile prison, start from the moment when the crime is committed and not when the sentence is applied. Thus in the juvenile prison are accommodated persons under the age of 23 who are younger adolescents and do not belong to the category of juveniles. In this segment the NPM issued recommendation for respect of the international minimum rules of the United Nations for application of the court procedures towards juveniles, it is stated "The juveniles in the prisons should be</p>

accommodated separately from the adults in separate institutions or separate parts of the institution where there are adult persons deprived of liberty. In the current circumstances the juveniles and the adult persons accommodated in juvenile prison are not separated.

What can be concluded is that our legal decisions for a juvenile prison are given by the criteria of time when the crime is conducted and not by the length of the sentence i.e. during the time of the sentence the person in most of the cases is not a juvenile anymore but younger adolescent, not in accordance with the European prison rules and the article 24 which regulates the issue of juveniles. The European prison rules use the term juveniles defining that *“the juveniles deprived of liberty must serve their sentence in a juvenile prison in a special facility for juveniles”*.

The NPM is of opinion that the legal provisions must be adjusted to the international rules and standards, always having in mind the best interest of the child in the process of its resocialization.

No. 34

The Ombudsman submitted a request for initiating:

	POLICE PROCEDURE			PENITENT.-CORRECT FACILITIES		
	criminal		disciplinary	criminal		disciplinary
2008	4		1			1
2009	2			1		1
2010				1		1
2011	1			1		1
2012	1					1

Submitted complaints to the Ombudsman.
 Total number of complaints to the penitentiary-correctional and educational-correctional facilities
 2008 -55, 2009-347, 2010-395, 2011-352, 2012-278
 Total number of complaints against police employees
 2008-67, 2009 – 252, 2010-238, 2011-180, 2012-220

50 regular visits and 15 follow up visits conducted by the NPM. In 2012 signed Memorandum of cooperation with the Association of Psychiatrists. 9 visits conducted to places of deprivation of liberty with a psychiatrist.

		From the case work of the Ombudsman it can be concluded that the number of submitted complaints for abuse of police competences, in particular use of force, is decreased but there are still cases of abuse of police competences
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No. 36		
No. 37		
No. 38		
No. 39		

No. 40		
No. 41		
No. 42		

