



Република Македонија
НАРОДЕН ПРАВОБРАНИТЕЛ

Republika e Maqedonisë
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O M B U D S M A N
Republic of Macedonia

The Ombudsman of the Republic of Macedonia acting as National Preventive Mechanism (NPM) in line with the competences deriving from the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, the Law on the Ombudsman and the Ombudsman Rulebook submitted **OPINION** to the Ministry of Internal Affairs of the Republic of Macedonia aimed towards amending and supplementing the **Rulebook on the manner of the police work, the Rulebook on the police procedure with temporarily seized and found objects and the Standard Operational Procedures for detaining and treatment of detained persons.**

The Ombudsman as National Preventive Mechanism prepared this opinion on the basis of the findings of omissions in the treatment and respect of the rights of the persons deprived of their liberty, which the NPM identified during the 24 preventive visits (regular and follow-up visits) to the police stations countrywide.

During the preparation of this opinion the NPM took into consideration the rights of the persons deprived of liberty guaranteed with the Constitution and the State's responsibilities arising from the international human rights treaties such as the European Convention on Human Rights (ECHR), the International Covenant on Civil and Political Rights (ICCPR) and the UN Convention against Torture and other Cruel, Inhuman and Degrading Treatment and Punishment (UNCAT), as well as other international documents and standards that in depth regulate the proceedings and the effectuation of the rights of the persons deprived of liberty.

With regards to the **Rulebook on the manner of the police work** the Ombudsman as National Preventive Mechanism (NPM) gave an opinion that separate police officer (Admission officer) should be responsible for the persons deprived of their liberty while detained in a police station, i.e. this function should not be designated to the Police officer who is the Head of the Shift and who in line with the Law on police has other responsibilities connected to the regular execution of the police authorizations. On the basis of the 24 preventive visits, the NPM believes that the current solution appointing the Head of the Shift as Admission Officer is not appropriate and practical. NPM in most of the cases, especially in those police station that cover larger territory and where the extent of police work is larger, determined that the Head of the Shift is not in a position to carry out the responsibilities of an Admission officer, taking into consideration the safety of the detained person and the rights and treatment of these persons.

The NPM also suggested measures aimed towards greater protection of the personal integrity and privacy of the persons deprived of their liberty and asked the interview with the arrested and detained persons to be conducted only in separately determined interrogation room, not in the offices of the police inspectors. The NPM also suggested that the right to food and drinking water during the police detention period should be regulated with law. Additionally the NPM requested from the Mol to harmonize this Rulebook with the Law on

misdeemeanors and the Law on Juvenile Justice which also regulate the issue of detaining persons in police station, as well informing the detained person on the possibility within 30 days after the release from the police station to request from the investigative judge of the competent court to assess the legality of the detention and to determine it with separate decision.

Regarding the **Rulebook on the police procedure with temporarily seized and found objects** the NPM has detected cases of improper storage of temporarily seized objects in the offices of the inspectors in few police stations, which, according to the NPM's opinion, presents possible risk to the safety and the security of the arrested and detained persons. In that direction, the NPM recommended each temporarily seized object to be kept (stored) in separately equipped room in the police station of general competence and the same to be adequately recorded and marked. Only the police officer in charge of the proceedings with and the registry (books) of the temporarily seized objects should be granted access to this room. The temporarily seized weapons should be kept locked in a separate metal safe within the separately equipped room.

The NPM gave its opinion in a direction towards amending and supplementing the **Standard Operational Procedures for detaining and treatment of detained persons**. The preventive mechanism believes that in line with the principle for human treatment of the persons deprived of liberty and the international human rights standards the detained persons has right to food and drinking water. The detained person must be provided with meal every 6 hours and be granted unlimited access to drinking water. The meals must be provide with funds from the Mol's budget, for which purpose the Ministry of Internal Affairs should set up separate budgetary programme.

Besides the recommendation for regulating the issue related to the right of food and water, the NPM gave its opinion on the need to call for medical assistance in cases where the detained person is under influence of alcohol or other psychotropic substances. The doctor would confirm whether the person could be detained in a police cell without endangering his health and the life of the person. The NPM also gave its opinion regarding the use of the toilets taking into consideration the security and the privacy of the detained persons, the manner in which the bodily search should be conducted and the temporary storage of the belongings of the detained persons. The NPM emphasized that there has to be adequate and visible notification placed in the facilities that are under video surveillance and in the police detention cells. The detained person must be informed by the police officers about the video surveillance of the facilities in line with the international and domestic standards for personal data protection.