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O M B U D S M A N
Republic of Macedonia

INFORMATION UPON A SUBMITTED OPINION REGARDING THE PROPOSAL FOR THE LAW ON JUSTICE FOR CHILDREN SUBMITTED TO THE MINISTRY OF JUSTICE

The Ombudsman as a National Preventive Mechanism (NPM) in accordance with its competences that derive from the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Law on Ombudsman and the Rules of Procedure of the Ombudsman, on 04.09.2012 submitted an **OPINION** to the Ministry of Justice of the Republic of Macedonia in respect to the **Proposal for a Law on Justice for Children**.

The Ombudsman as a National Preventive Mechanism (NPM) is of opinion that this initiative (opinion), will contribute towards the improvement of the quality of this law in terms of decreasing the risks of possible torture and other cruel, inhuman or degrading treatment or punishment towards children deprived of liberty.

The Ombudsman as a National Preventive Mechanism (NPM) is of opinion that in this Proposal for a Law on Justice for Children the mechanisms for protection and monitoring of the children deprived of liberty should be strengthened in accordance with the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (“The Beijing Rules”).

The current draft proposal do not envisage a police officer who shall conduct the procedure with a child when invited, brought or detained in a police station, but it refers only to the provisions of the Law on Police.

The NPM through its submitted opinion to the Ministry of Justice emphasizes that this solution cannot provide for additional protection of the child in a procedure of the Ministry of Internal Affairs, but redirects this question to the Law on Police that although envisages specially trained officers to work with juveniles, in exceptional circumstances, still allows for other police officers to work with them.

The National Preventive Mechanism through their regular and follow up visits to the police stations of general competence with authorization to detain persons, detected that some of them do not have specially appointed officer (investigator), for juvenile delinquency who would be adequately trained for such purpose. That is why the NPM requested a full implementation of this international-legal standard directly into the Law on Justice for Children, having in mind the purpose of this law- adjustment with the international standards for improvement of children’ legislation and protection of their rights.

The NPM gave its opinion upon the definition ‘child’s best interest’, thus on the basis of gathered information from the conducted visits, it is necessary to determine that: **“The best**

interest of a child demands that he should not be all the time isolated and separated”, because this will influence negatively upon his normal psycho- physical development”.

The accommodation of children in detention separately from the adolescents is an international-legal standard and obligation that derives from article 10 of the International Covenant on Civil and Political Rights. The NPM is of opinion that in some exceptional cases, when it is in child’ best interest, exceptions can be made in allowing daily and occasional contacts with well chosen younger adolescents. These exceptional cases can be considered only in the part of making contacts and involvement in joint social activities, and not in the part of accommodation.

The NPM is of opinion that in a long run, the deprivation of liberty for a child, hereby including the detention, should be done only in specialized premises for children deprived of liberty, with a well trained personnel, policies and practices that shall have the treatment towards children in their main focus.