LEVEL OF RESPECT FOR THE RIGHTS OF FOREIGN CITIZENS WITH THE FOCUS ON PERSONS FROM THE REFUGEE CRISIS BEING SENTENCED TO IMPRISONMENT IN PI IDRIZOVO

- research paper -

Skopje, December 2018
### CONTENTS

Subject and objectives of the research ................................................................. 251  
Methodological framework of the research ....................................................... 252

**FIRST PART**  
**ANALYSIS OF THE LEGAL FRAMEWORK** ..................................................... 255

1. **International documents and standards** .................................................... 255  
   1.1 Nelson Mandela Rules revised Standard Minimum Rules for the Treatment of Prisoners (NMRs SMRTP) ......................................................... 255  
   1.2 European Prison Sentencing Rules .......................................................... 256  
   1.3 Recommendations CM/Rec (2012) 12 concerning foreign prisoners .......... 257

2. **National legal for the protection of the rights of foreign nationals serving prison sentence in the Republic of Macedonia** ........................................... 262  
   2.1 Law on Enforcement on Sanctions ......................................................... 262  
   2.2 Law on International Cooperation in Criminal Matters .......................... 266  
   2.3 By-laws  
      2.3.1 House rules for convicts serving prison sentences in penitentiary institutions ................................................................. 270  
   2.4 Law on International and Temporary Protection ...................................... 271  
   2.5 Law on Foreigners ................................................................................. 275

**PART TWO**  
**ON THE REFUGEES AND REFUGEE CRISIS** ............................................ 279

1. **Refugee crisis in the Republic of Macedonia** ............................................. 279
PART THREE
RESULTS FROM THE EMPIRICAL RESEARCH ON THE EXTENT TO WHICH THE RIGHTS OF FOREIGN CITIZENS CONVICTED OF SERVING A PRISON SENTENCE IN PI IDRIZOVO ARE RESPECTED

1. Research results
   1.1 General information about foreign prisoners
      1.1.1 Gender of foreign prisoners
      1.1.2 Citizenship of foreign prisoners
      1.1.3 Year of birth of foreign citizens
      1.1.4 Criminal act for which foreign prisoners serve sentence
      1.1.5 Criminal history of foreign prisoners
      1.1.6 Education for foreign prisoners
      1.1.7 Marital status of the foreign prisoners
      1.1.8 Occupation of the foreign prisoners
      1.1.9 Heath condition of foreign prisoners
      1.1.10 Addiction of foreign prisoners
   1.2 Status of foreign prisoners
      1.2.1 Classification
      1.2.2 Accommodation
      1.2.3 Clothiers and bedding
      1.2.4 Personal hygiene
      1.2.5 Food
      1.2.6 Rest
      1.2.7 Work
      1.2.8 Health care
      1.2.9 Education and vocational qualification
      1.2.10 Leisure activities, sport and recreation
      1.2.11 Educational-correctional work
      1.2.12 Satisfying religious needs
      1.2.13 Contact with the outside world
      1.2.14 Marriage
      1.2.15 Conveniences
      1.2.16 Reallocation due to progress
      1.2.17 Termination of serving a sentence
1.2.18 Relation with the personnel

1.2.19 Escape

1.2.20 Discharge from an institution
   1.2.20.1 Pardon
   1.2.20.2 Conditional release
   1.2.20.3 Discharge by decision issued by the Director of the Institution

1.2.21 Protection of rights through the use of legal remedies

1.2.22 Disciplinary procedures

1.2.23 Asylum

2. Results of conducted interview with the prison staff (one educator and two representatives from the prison police)

GENERAL CONCLUSION

CONCLUSIONS AND RECOMMENDATIONS

Used literature

Annex - Questionnaire
## ABBREVIATIONS

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>EPR</td>
<td>European Prison Rules</td>
</tr>
<tr>
<td>ECHR</td>
<td>European Court for Human Rights</td>
</tr>
<tr>
<td>EU</td>
<td>European Union</td>
</tr>
<tr>
<td>LATP</td>
<td>Law on Asylum and Temporary Protection</td>
</tr>
<tr>
<td>LFLA</td>
<td>Law on Free legal Aid</td>
</tr>
<tr>
<td>LES</td>
<td>Law on Execution of Sanctions</td>
</tr>
<tr>
<td>LITP</td>
<td>Law on International and Temporary Protection</td>
</tr>
<tr>
<td>LICCM</td>
<td>Law on International Cooperation in the Criminal Matter</td>
</tr>
<tr>
<td>LF</td>
<td>Law on Foreigners</td>
</tr>
<tr>
<td>CC</td>
<td>Criminal Code of the Republic of Macedonia</td>
</tr>
<tr>
<td>PCI</td>
<td>Penitentiary -Correctional Homes</td>
</tr>
<tr>
<td>CPT</td>
<td>European Committee for the Prevention of Torture and Inhuman aid Humiliating Treatment or Punishment</td>
</tr>
<tr>
<td>PI</td>
<td>Penitentiary Institutions</td>
</tr>
<tr>
<td>MFR</td>
<td>Ministry of Foreign Affairs</td>
</tr>
<tr>
<td>MoJ</td>
<td>Ministry of Justice</td>
</tr>
<tr>
<td>NMRs SMRTP</td>
<td>Nelson Mandela Rules, revised standard minimum rules for the treatment of prisoners</td>
</tr>
<tr>
<td>OO</td>
<td>Ombudsman’s Office of RM</td>
</tr>
<tr>
<td>NPM</td>
<td>National Preventive Mechanism</td>
</tr>
<tr>
<td>OO-NPM</td>
<td>Ombudsman’s Office-National Preventive Mechanism</td>
</tr>
<tr>
<td>UN</td>
<td>United Nation</td>
</tr>
<tr>
<td>RM</td>
<td>Republic of Macedonia</td>
</tr>
<tr>
<td>UM</td>
<td>European Council</td>
</tr>
<tr>
<td>DES</td>
<td>Directive for Execution of Sanctions</td>
</tr>
<tr>
<td>UNHCR</td>
<td>United Nation High Commissioner for Refugees</td>
</tr>
</tbody>
</table>
“The degree of civilization in society can be assessed if it enters its prisons.”

Fyodor Dostoevsky

“The mood and attitude of the public towards the treatment of crime and perpetrators is one of the infallible tests for the civilization of one country.”

Winston Churchill
The promotion and protection of human rights, as well as the continued commitment to the unconditional comprehensiveness of all citizens in the society, including the prisoners, is in the constant focus of the Ombudsman.

Having in mind the promotion of the concept of the human rights and freedoms as the highest civilization value in the modern society, the Ombudsman, in the framework of its mandate and competences, pays particular attention to the protection of the guaranteed rights of the convicted persons, especially the issue of prison conditions and the degree of respect of the rights and dignity of convicted persons.

The placement of the penitentiary system in our country, which represents an important segment for the progress of the Republic of Macedonia as a candidate country for membership in the European Union, seems to contain all elements of a modern system of sanction enforcement, especially in terms of legally regulated rights and obligations. Namely, the law guarantees the convicted persons their rights and imposes obligations without the existence of the degrading effect on the person and his dignity. Unfortunately, however, there is a huge gap between the real, as opposed to the expected position of convicts in the penitentiary institutions.

In addition, we must not neglect the refugee crisis that has left a mark in many segments of everyday life, but also brought a “wave” of refugees who found themselves in the only penitentiary institution in the country, where convicted persons are foreign citizens and persons without nationality status - Penitentiary Institution Idrizovo.

The category of convicts, foreign citizens and stateless persons, due to differences in language, culture, customs and religion, as well as the lack of family ties and contact with the outside world, faces even greater obstacles in achieving minimum rights stipulated by law.

Having in mind the continued commitment of the Ombudsman to the promote and protect of human rights in general, not excluding the prison population,
neither refugees nor migrants, especially given the current migrant crisis, in November-December this year (2018), we implemented a research that has not been conducted in the Republic of Macedonia so far, in order to identify the degree of respect for the rights of foreign citizens serving prison sentences in the Penitentiary Institution Idrizovo.

As a result of the conducted research, which is the first research study of this kind in our country, today we have a documented view of the actual state of the convicted persons, foreign citizens and stateless persons, placed in PI Idrizovo, which clearly depicts the harsh situation of convicts, the shortcomings and weaknesses in the penitentiary system and the paradox related to the implementation of the legislation in practice.

At the same time, given the specific situation of foreign prisoners, this study contains recommendations in order to take measures to alleviate the possibility of isolating foreign prisoners and facilitating their treatment. Also, the legal possibilities for transferring these persons to their countries are analyzed, as well as the reasons for the long duration of the transfer procedures, and the possibilities for asylum, especially for prisoners, foreign citizens originating from the countries covered by the refugee crisis.

In this direction, this research seeks to offer solutions to key policy holders (the Ministry of Justice, the Agency for Execution of Sanctions, the Administration of PI Idrizovo) for better implementation of the legal provisions aimed at exercising the rights of prisoners of foreign citizens.

I expect this document to serve as an alarm for the authorities and institutions of the state that are directly responsible for the shortcomings of the penitentiary system, but also to reach the public as a message to the citizens referring to the civilization level of the country they live in.

At the end, let us not forget that the achievement of the social goal by punishing the perpetrator of a crime must not be an attack on his dignity and integrity. In that regard, I would remind: “No one really knows a country until it has been in its prisons. The state should be judged by how it treats its poorest people, not its most prominent citizens “- Nelson Mandela

OMBUDSMAN
Idzet Memeti
The subject of the analysis of this research is the degree of respect for the rights of prisoners- foreigners imprisoned in PI Idrizovo, with the focus on prisoners originating from the states experiencing the so-called “Refugee crisis”.

So far in the Republic of Macedonia (RM) no research of this kind has been conducted, since all previous analyzes, surveys, studies, etc. focus on prisoners’ rights, in general.

However, acknowledging that there are many foreigners in the Republic of Macedonia (during the research period, on November 14 and 15, 2018, in PI Idrizovo, there was a total of 102 prisoners) and that this category of prisoners were facing difficulties due to differences in language, culture, customs and religion as well as lack of family ties and contact with the outside world, a need occurred to carry out a research of this kind.

The purpose of this research is to look at the situation of prisoners - foreigners serving prison in PI Idrizovo, to offer recommendations in order to undertake measures to alleviate the possibility of isolating foreign prisoners and to facilitate their treatment in order to boost the process of their re-socialization. The study also analyzes the possibilities of transferring these people to their countries and perceives the practical problems that arise in terms of the length of the transfer procedure. Furthermore, the legal opportunities for international support (asylum) were analyzed, especially of prisoners who are foreign citizens originating from the countries covered by the refugee crisis (Iran, Pakistan, Afghanistan and Sudan).

In this direction, based on the conducted empirical research, this study attempts to offer solutions to key policy holders (Ministry of Justice, MIS (УИС), Administration of PI Idrizovo) for better implementation of legal provisions aimed at the realization of the rights of foreign citizens, but also other bodies involved in the process of exercising and protecting the rights of foreign citizens and persons without nationality.
One single document can not solve all aspects of a problem, but it can identify the main challenges and, consequently, offer possible alternatives.

This research was conducted for the needs of the Ombudsman by the National Preventive Mechanism in cooperation with the external associate prof. Dr. Aleksandra Gruevska Drakulevski, and is funded by the Office of the United Nations High Commissioner for Refugees.

Methodological framework of the research

For the completion of this research, starting from the goals of the research and the determined subject and content, appropriate basic and special scientific and research methods have been applied.

The normative method is used for the analysis of the positive legal norms that regulate the protection of the rights of the convicted persons in accordance with the LIS and the bylaws. An analysis was performed using the legal-analytical method of different resources.

The most important international documents that guarantee the rights of prisoners, in general, and specifically foreign prisoners are analyzed. This includes Nelson Mandela Rules, the revised Standard Minimum Rules for the Treatment of Prisoners, the European Prison Rules, and a special emphasis is placed on Recommendation CM / Rec (2012) 12 regarding foreign prisoners.

Also, a brief overview of the refugee and refugee crisis issues is given and the possibilities for asylum for foreign citizens serving prison sentences in the Republic of Macedonia. In doing so, quite briefly the legal framework in the Republic of Macedonia for asylum and transfer of convicted persons is analyzed.

The most significant findings about the degree of respect of the rights of foreign prisoners were obtained from the research conducted at the Idrizovo Penitentiary, which included foreign prisoners and representatives of the prison staff who are in contact with this category of prisoners in their everyday work.

For the needs of the research, two questionnaires were prepared: a questionnaire for employees in the PI Idrizovo, which contains open questions and a questionnaire for foreign prisoners.

The questionnaire for foreign prisoners is structured in such a way that the first part refers with questions relating to basic data, then questions about the rights of the convicted persons and the third part are questions concerning the possibility
and the procedure for asylum, given the fact that a significant number of foreign prisoners (a total of 13) are from the countries affected by the refugee crisis. The questionnaire is provided in the annex to this research.

In the period November 14 and 15, 2018, a visit to PI Idrizovo was made as an institution in which according to the Decision for deployment of convicted, punished and juvenile persons in the correctional institutions, male and female persons are sent: foreign citizens and stateless persons.

During the visit to the institution, first interviews with employees were conducted, including an educator working with foreign prisoners and two members of the prison police. Subsequently, structured interviews with foreign prisoners were conducted.

In the period November 14 and 15, 2018, a visit to PI Idrizovo was made as an institution in which according to the Decision for deployment of convicted, punished and juvenile persons in the correctional institutions, male and female persons are sent: foreign citizens and stateless persons.

During the visit to the institution, first interviews with employees were conducted, including an educator working with foreign prisoners and two members of the prison police. Subsequently, structured interviews with foreign prisoners were conducted.

The conduct of structured interviews with foreign prisoners was conducted without supervision from the prison staff. For foreign prisoners from Afghanistan, Pakistan, Iran and Sudan translators were provided in their mother tongue. Questionnaires in Albanian were provided to foreign prisoners whose mother tongue is Albanian. These were prisoners originating from Albania and Kosovo, while for the foreign prisoners from Serbia, Croatia, Bulgaria and other countries the questions were translated in their mother tongue or in English. Interviews with foreign prisoners were led by the Ombudsman team - National Preventive Mechanism (NP-NPM).

For data analysis the content analysis method was used. The collected empirical data are interpreted with a speculative and logical approach for the extent to which the rights of foreign citizens are respected, those who serve imprisonment sentence in the Republic of Macedonia.

---

1 Decision on the deployment of convicted, punished and juveniles in the penitentiary and correctional institutions (“Official Gazette of the Republic of Macedonia” No. 84/2008)
The results of this study confirmed the main hypothesis, i.e. that it is necessary to improve the unfavorable conditions in the institution in which foreign prisoners serve their imprisonment sentence, as well as to promote their rights and assist them in the realization of their rights, to establish contacts with their family and consular agencies of their respective countries, in particular providing assistance in the procedure for asylum and/or transfer to their countries or other third safe countries.
1. INTERNATIONAL DOCUMENTS AND STANDARDS

1.1 Nelson Mandela Rules revised Standard Minimum Rules for the Treatment of Prisoners (NMRs SMRTP)

The standard minimum rules for dealing with prisoners are the first document that guarantees the legal status of prisoners. They were revised in 2015. Nelson Mandela Rules, the revised Standard Minimum Rules for the Treatment of Prisoners relate entirely to prisoners who are foreign citizens. When it comes to this category of prisoners, in accordance with rule 62 of the NMP (rule 38 before the audit), it is particularly pointed out that “prisoners who are foreign citizens should be allowed reasonable means of communication with diplomatic and consular representatives of the state whose citizens they are.” Furthermore, “the prisoners who are nationals of countries that do not have diplomatic or consular representation in the country or refugees or stateless persons should be allowed the same means


of communication with a diplomatic representative of a state that protects their interests or any national or international authority whose task is to tasked protect those people.“

Regarding the rights of prisoners, in general, the NPM SMRTT contains provisions for accommodating prisoners, personal hygiene, clothing and bedding, diet, exercise and sports, medical services, discipline and punishment, means of coercion, information and the right to complaints of prisoners, contact with the outside world, library, religion.

1.2 European Prison Sentencing Rules

The Council of Europe in its endeavours to make a unified application and shaping of the concept of protection and enabling the guaranteed liberties and rights established with the European Convention for Human Rights, following the attitude of the United Nations in documents brought for guaranteeing and fulfilling the given rights and liberties, especially when regarding the Standardized Minimal Rights of the United Nations regarding the handling of prisoners and the Summary of the Minimal Rights for Protecting the Convicted Minors, who have had their freedom revoked, of the United Nations, has brought a very significant document, known as the European Prison Rules. In 2006 the Recommendation Rec(2006)2 was brought by the Committee of Ministers to member states of the Council of Europe regarding the European Prison Rules.

Same as in NMP SMPPZ, the rules and contents of the European Prison Rules, fully act in regard with foreign prisoners.

---


6 Council of Europe, Committee of Ministers, Recommendation Rec (2006)2 of the Committee of Ministers to member states on the European Prison Rules1 (Adopted by the Committee of Ministers on 11 January 2006 at the 952nd meeting of the Ministers’ Deputies).
In a separate rule, Rule 37.1-37.5, certain specifics are put in foreground concerning foreign prisoners. As such “Foreign Prisoners should, with no delay, be made aware of their right to ask to be allowed to make contact with the diplomatic or consular representative of their country. Foreign prisoners that are Citizens of Countries that have no diplomatic or consular representatives, Refugees or Persons with no Citizenship, should have the similar possibilities for communication with a diplomatic representative of the Country that is taking care of their interests or the home or foreign department that has the task of serving the interests of these people. With the goal to protect the interests of foreign citizens with special needs in prison, the prison staff should fully cooperate with the diplomatic or consular officials that represent those prisoners. Foreign prisoners should be made aware of information concerning legal help. The prisoners as foreign nationals should be made aware of the opportunity to be transferred to another country in order to serve their sentence there.”

1.3 Recommendations CM/Rec(2012)12 concerning foreign prisoners

Concerning the high number of foreign prisoners in the correctional facilities in the Member States of the European Union, the Committee of Ministers of the Council of Europe brought, in 2012, the Recommendation CM/Rec(2012)12 concerning foreign prisoners.

In the Recommendation, it is implied that this is a separate category of prisoners that face difficulties because of language barriers, differences in culture, customs and religion, as well as lack of family and contact with the outside world. It follows that certain measures should be made in order to soften the isolation of the foreign prisoners and to make their treatment easier, with the goal of achieving social reintegration; this treatment should also include the special needs of the foreign prisoners, that stem from the fact that they are locked up in a country in which they are neither citizens nor residents, with the aim to facilitate opportunities that are just like those of other prisoners.

The Annex of the Recommendation CM/Rec(2012)12 includes eight parts

---

7 Council of Europe, Committee of Ministers, Recommendation CM/Rec (2012)12 of the Committee of Ministers to member States concerning foreign prisoners (Adopted by the Committee of Ministers on 10 October 2012 at the 1152nd meeting of the Ministers’ Deputies).
concerning the following topics: Definitions and Reach (Part one); Basic Principles (Part two); Imprisonment (Part three); Sentencing (Part four); Prison Conditions (Part five) (Concerning: Reception, Classification, Accommodation, Hygiene, Clothes, Nutrition, Legal Advice and Help, Contact with the Outside World, Contact with Consular Representatives, Prison Regime, Work, Exercise and Relaxation, Education and Training, Freedom to express ones Religion, Health, good Order, Security and Safety, Women and New-borns); Release from the Correctional Facility (Part six) (Possibilities for early Release and Discharge from the Facility); Personnel that will work with the Foreign Prisoners (Choice, Training, Specialization) (Part seven); and Evaluation of the Policies (Part eight).

The Recommendations are analysed further in the text.

In accordance to Article 1 a. and e. from the Recommendation, a foreign national is a person who does not possess citizenship and is not regarded as a resident of the state where he or she is being prosecuted; a foreign prisoner is every person that is in prison, that is being prosecuted or has done something and has been arrested in a different place.

This Recommendation concerns the foreign prisoners, as well as other foreigners that are not in prison, but have criminal charges against them, as well as criminal sanctions and measures and cannot or are deprived from freedom (Article 2 of the Recommendation).

The Basic Principles given in Chapter II. of the Recommendation, state that foreign prisoners be treated with respect of their Human Rights and with special regards to their specific situation and individual needs (Article 3). They should not be judged to prison sentences based on their Status (Article 5). The same rules that are in place for the others regarding earlier release should apply to them as well (Article 6).

Special attention is placed on the making of positive steps to avoid discrimination and to address the specific problems foreign prisoners face while imprisoned, during the transfer and after their release (Article 7).

Then, it is said that the foreign prisoners, that ask for interpreters and translation as well as the opportunity to learn the language, should be awarded this right in order to make their efforts to communicate more effective (Article 8).

Enough resources should be secured for an effective handling of the specific situation and specific needs of foreign prisoners (Article 11). The personnel that is in charge for the foreign prisoners, should complete specific training (Article 12).
During the sentencing the Recommendation Rec (92) 17 concerning consistency in sentencing should be taken into consideration (Article 14). The possibility to receive a sanction that is not in the jurisdiction of an institution should be considered for the foreign criminals, in the same way it would be considered for home prisoners.

During the imprisonment and serving of the sentence, the prisoners should receive information in a language that they understand regarding: a. their rights and obligations as prisoners, including contact with their consular representatives; b. the main characteristics of the prison regime and internal regulations; c. rights and procedures for submitting requests and complaints; and d. their rights to legal advice and help. Immediately after the imprisonment, the prison authorities should help the foreign prisoners inform their families, legal councils, consular representatives and other persons or organizations about their imprisonment, so that these can help. And, as soon as possible, after the imprisonment, they should be given, in a language that they understand, either in an oral or a written way, information concerning the possibilities for international transfer (Article 15).

Concerning their allocation the need to soften their potential isolation and make their contact with the outside world easier should be considered. If the possibility exists for the foreign prisoners to be placed in prisons that are near transport facilities, in order to make the visitation rights for their families easier, or for them to be placed in prisons where there are other prisoners that have the same nationality, culture, religion or that speak the same language (Article 16).

Hygiene, especially the objects for sanitation and hygiene, should, as much as possible, satisfy the cultural and religious preferences of the foreign prisoners, while maintaining proper medical standards (Article 18) and for the prisoners to be allowed to wear clothes that show their culture and religious communities (Article 19). Cultural and religious diets should also be taken into consideration when discussing the nutrition of the prisoners (Article 21).

Regarding the contact with the outside world, help is recommended in order to make contact with family and friends, consular representatives, probation and agencies in the community as well as with volunteers.

The poor foreign prisoners should also be helped in covering the charges for communication with the outside world. With the goal to optimize contact, visits of

---

the foreign prisoners by family members that live abroad, should be organized in a
more flexible way, which can include the permission of the foreign prisoners to com-
bine their rights for visitation. Separate measures should also be taken to encourage
and allow the foreign prisoners to sustain regular contact with their own children
(Article 22).

The foreign prisoners should also be allowed to be regularly informed through
newspapers, periodicals or other publications in a language that they understand, to
be given access to radio or television transmissions or other forms of communica-
tion in a language that they understand (Article 23).

Special emphasis is placed on the importance of contact with the consular
representatives. Foreign prisoners who do not have a consular representative office in
the country in which they are located, have the right to a regular contact and com-
monunication with the representatives of the state/s that take/s over their interests.
Foreign prisoners who are refugees, asylum seekers or stateless persons have the
right to communicate with representatives of national or international authorities
whose task is to serve the interests of such prisoners (Article 24).

Prison authorities should inform foreign prisoners about their right to seek
contact with their consular representatives or representatives of national or inter-
national bodies whose task is to serve their interests, but also to inform consular
officials about their citizens who are in jail (Article 25).

Foreign prisoners need to be provided with appropriate working engagement
(Article 27), sport and recreation (Article 28), education and vocational education
(Article 29), freedom of religion (Article 30), the right to health care (Article 31), to
prevent self-harm and suicide, ensure order, safety and security of foreign prisoners
(Article 32).

The recommendation contains special provisions for female foreign prisoners
and their young children (Articles 33 and 34).

Provisions for dismissal of foreign prisoners are presented in a separate chap-
ter. Preparations for the release of foreign prisoners should begin on time and in a
manner that will facilitate their reintegration into society (Article 35).

Regardless of whether after the dismissal of the prisoner, he/she will remain
in the state or will be expelled, or transferred to another state, the appropriate au-
thorities should provide respective assistance (Article 35).

Foreign prisoners, as well as other prisoners, should be granted early release
as soon as they meet the required conditions and must not be discriminated against in this regard (Article 36).

When releasing from prison, in order to help foreign prisoners resocialize, practical measures will be taken to provide appropriate documents as well as identification and travel assistance documents and consular officials shall assist them (Article 37).

The seventh chapter contains provisions for persons working with foreign prisoners. They should be selected according to certain criteria that include cultural sensitivity, interaction skills and linguistic abilities, and a proper training (Articles 38 and 39).

The last chapter highlights that authorities regularly assess their policies for dealing with foreign suspects and perpetrators on the basis of scientifically validated research and review them where appropriate (Article 41).
The position of the sentenced person while serving a prison sentence can be analyzed through defined rights, duties and disciplinary responsibilities.

Contemporary penitentiary systems, as ours, guarantee the sentenced persons with rights that can not be violated and determine obligations that fulfillment does not degrade their personality.

When a person’s freedom is limited, no one can speak of “rights”, but the “legal status” of the sentenced person should be guaranteed.

The Law on Enforcement of Sanctions does so in the general provisions, and does not include the subheading “Legal status of the sentenced person” with special systematization of the guaranteed rights. Namely, in a separate chapter entitled “Position of the sentenced persons” in twenty-one chapters, it regulates the questions for the classification of sentenced persons (Article 101), accommodation (Article 102-104), clothes and bedding (Article 105-107), personal hygiene (Article 108), nutrition (Article 109-110), rest (Article 111-112), work (Article 113-122), pension insurance (Article 123), health protection (Article 124-134), education (Article 135-137), leisure activities, sport and recreation of sentenced persons (Article 138-139), educational work with sentenced persons (Article 140), meeting religious needs (Article 141), contact with the outside world through correspondence, tele-

---

phoning, visits and receiving shipments (Article 142-151), concluding a marriage of sentenced persons (Article 152), convenience (Article 153-153-b), displacement of prisoners (progression, regression and relocation of sentenced persons) (Article 154-157), interruption of serving the sentence (Article 158-162), relation of officials to sentenced persons (Article 163-165), protection of sentenced persons by using legal means of protection (legal advice and legal means of sentenced persons, appeal of sentenced persons to international bodies and authorities) (Article 166-174) and the protection of the rights of collaborators of justice (Article 175), disciplinary responsibility of the sentenced persons and material liability of the sentenced persons (Article 176-185 LES).

This is one of the most important chapters of the Law, because it provides means and methods that will ensure the treatment of prisoners in order to achieve the process of their re-socialization as the main purpose of the execution of the sentence of imprisonment. In this chapter, the provisions that give the sentenced person access to legal means for the protection of their rights are of particular importance. These provisions essentially change the relationship between the employees (the formal system in the institution) and sentenced persons, and relations are created in which they appear as equal sides.

In these provisions, the LES fully incorporates the standards for dealing with sentenced persons provided by NMR SMRDP and EPR.

Regarding prisoners who are foreign nationals, the same provisions apply to all other prisoners. Only Article 23 foresees that special departments for sentenced foreign nationals and stateless persons shall be established in closed-wing institutions. When executing the sentence of imprisonment for these persons, the international documents referring to the serving of imprisonment to this category of sentenced persons are applied.10

Furthermore, Article 146 states that “If a foreign citizen, a stateless person or a fugitive is sentenced, the consular representative of his state or the state that

---

protects his interests can visit the sentenced person in accordance with the rules of international law under conditions of reciprocity. The consular officer is obliged to announce and schedule the visit at the institution in which the person is serving the sentence.”

However, in practice, there is a discrepancy between the position of the prisoners de jure and defacto. Such a situation can be seen through the reports of the Ombudsman and the NPM\textsuperscript{11}.

Thus, in the annual reports of the Ombudsman, as well as in the reports of the NPM, for years, and especially for the last reporting period, 2017, point to the fact that the conditions in all the penitentiary institutions, and especially in the Idrrizovo Penitentiary, as an institution of special interest in this research, are below the prescribed minimum standards. Mainly, the remarks refer to the problem of overcrowding, which further produces other problems, such as bad accommodation conditions, nutrition, general and personal hygiene, sanitary conditions, which are below the minimum standards. The O-NPM for years points out in its reports and recommendations for urgent and obligatory undertaking of measures for overcoming such conditions and creating more dignified conditions for the stay of sentenced persons, although in practice this has not been implemented. A serious problem is the health care of prisoners, that is, inadequate conditions in prison ambulances, insufficient equipment with medical equipment and appliances, lack of medicines and insufficient number of health and medical personnel. Thereafter, the problem of non-implementation of treatment of prisoners in the direction of their re-socialization, i.e., there is no education or professional education, educational work with the sentenced persons, working engagement, nor efficient organization of free time\textsuperscript{12}.

The implementation of sanctions includes several forms of oversight of the work of the institutions. The basic form of supervision is the judicial supervision in the execution of sanctions and is entrusted to the Judge for the execution of sanctions (Article 78-81 LES). The following form of supervision and control is the expert-instructor supervision in the execution of sanctions, which is entrusted to the Ministry of Justice through the Directorate for Execution of Sanctions as a body

\begin{footnotesize}

\end{footnotesize}
within the Ministry of Justice (Article 77 LES). LES provides oversight in the execution of sanctions by the State Commission for Supervision established by the Government (Article 82 LES), but this commission does not function\(^\text{13}\).

Of no less significance for the protection of the rights of sentenced persons are the preventive visits made by the Council of Europe Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)\(^\text{14}\) and National Preventive Mechanism (NPM) at the Ombudsman.

The National Preventive Mechanism (NPM)\(^\text{15}\) according to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment\(^\text{16}\) is a national body that regularly reviews the treatment of persons deprived of liberty in order to strengthen, if necessary, their protection against torture and other cruel, inhuman or degrading treatment or punishment\(^\text{17}\).

According to the Optional Protocol and the Law on the Ombudsman, the National Preventive Mechanism has the authority to regularly review the treatment of persons deprived of liberty, to make recommendations to the relevant authorities in

---

\(^{13}\) Given the non-functioning of the State Commission for Supervision, the proposal of the new LES does not foresee its existence.

\(^{14}\) European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) http://www.cpt.coe.int/en/.

\(^{15}\) The Republic of Macedonia signed the Optional Protocol to the Convention against Torture on 01.09.2006, while the Parliament of the Republic of Macedonia ratified the same protocol on December 30, 2008, thus appointing the Ombudsman to act as National Preventive Mechanism (NPM) in the Republic of Macedonia with the main task to prevent torture and other cruel, inhuman and degrading treatment or punishment. The National Preventive Mechanism in the Republic of Macedonia draws its mandate and competences from the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Law on the Ombudsman, and there is also a separate Rulebook on the manner of prevention and methodology for the manner of conducting preventive visits prepared. The National Preventive Mechanism implements its activities in accordance with the Annual Work Program approved by the Ombudsman.


order to prevent torture and other forms of inhumane treatment, as well as to submit proposals and perceptions regarding existing or draft legislation. The National Preventive Mechanism has the authority to provide unhindered access to all places of deprivation of liberty, access to all information concerning the number of persons deprived of liberty, as well as access to information concerning the treatment of persons and the conditions for their deprivation of liberty.

The NPM conducts visits to the places of deprivation of liberty which it chooses to interview personally or with an interpreter, with any person of their own choosing, and has the possibility to contact the Subcommittee on Prevention of Torture, to send it information and hold meetings with him.

O-NPM has published annual reports in the past years, as well as special reports, in which it strongly criticizes the conditions for serving a prison sentence in the Idrizovo Penitentiary\(^\text{18}\).

**2.2 Law on International Cooperation in Criminal Matters**

Law on International Cooperation in the Criminal Matter (LICCM)\(^\text{19}\) in its second part contains pretransfer of convicted persons, i.e. foreign citizens.

A sentenced person who is not a citizen of the Republic of Macedonia, and is serving a prison sentence in the Republic of Macedonia on the basis of a verdict of a domestic first instance court, may file a request for the completion of the sentence in the state of which he is a citizen. The sentenced person may submit the request to the management of the penitentiary institution in which he is serving the sentence, to the domestic first instance court or to the Ministry. The domestic first instance court that brought the first instance verdict or the PCF management in which the sentenced person is serving the sentence of imprisonment is obliged to inform the sentenced person of the possibility of imposing the punishment in the state of which he is a citizen. The application may also be submitted by the state of the sentenced person. The request will be considered only if the sentenced person has given his consent to be transferred to the state of which he is a citizen (Article 92).


\(^{19}\) Official Gazette ofRM, No. 124 from 20.09.2010.
The application for transfer shall be accompanied by: 1) a certified copy of the final verdict with which the person was sentenced; 2) the legal provisions applied; 3) information on the duration of the already served part of the sentence and information on detention or any other information on serving the sentence; and 4) a statement with the consent of the sentenced person for the transfer (Article 93).

The competent authority for communication is the Ministry of Justice (MoJ) to which the request for transfer and the files are submitted, and the MoJ informs the state to which the person is a citizen in order to continue serving the sentence of imprisonment, initiates a procedure for transferring the sentenced person on the basis of an international agreement or on the basis of mutuality. At the request of the competent national authority, the foreign state submits all additional information and documents and vice versa (Article 94).

Regarding the transfer procedure, pursuant to Article 95 of the LICCM, the state of the sentenced person after the recognition of the verdict of the domestic court by the foreign competent authority, through the Ministry, submits the sentence of the sentenced person. Once the judgment of the foreign competent authority recognizing the judgment of the domestic court becomes effective, the Ministry gives consent for the transfer. The Ministry shall notify its decision on acceptance or rejection of the transfer request to the state in which the punishment is to be executed.

Transfer can be performed only if: 1) the sentenced person is a citizen of the state in which the punishment will be restored; 2) the verdict is final; 3) at the time of receipt of the request for transfer, the sentenced person shall have at least six more months remaining from the pronounced sentence and if he has given consent; 4) the sentenced person or his legal representative or guardian due to his age or psycho-physical condition gave consent for transfer; 5) the acts on which the person is sentenced constitute a crime in the state in which the punishment is executed; and 6) the Republic of Macedonia and the foreign state agree on the transfer (Article 96).

In practice we are facing a long duration of the transfer procedure.

With the increase in international travel and migration, more and more countries worldwide condemn and punish foreign nationals for imprisonment or other forms of deprivation of liberty. This raised the question of how best to deal with such sentenced persons.\textsuperscript{20}

In some countries, the practice is to deport or otherwise remove all foreign sentenced persons. Such removal may seem like an attractive solution, because the state in which the crime was committed may not want to allow the perpetrators to remain there. However, there is an obvious disadvantage because such sentenced foreign nationals can completely avoid the punishment. Second, sentenced persons sentenced to imprisonment may serve the sentence in the state where they committed the crime, and then expelled after their release from the institution. This approach, however, has certain disadvantages. Not only does serving a prison sentence in another state prevent the exercise of the rehabilitation process of these people, there may be other reasons for their transfer to a state whose citizens they are to serve their sentences there. Since 1985, when the seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders has adopted the Contract Model for the transfer of foreign prisoners and recommendations for the treatment of foreign prisoners, the United Nations and, in particular, the Office of Drugs and Crime of the United Nations (UNODC) have sought to play an active role in facilitating the transfer of sentenced persons.

The question arises as to why the transfer of sentenced persons is significant. The reasons are the following. The purpose of the sentence of imprisonment are the re-socialization and rehabilitation of the perpetrators in order to their successful reintegration into the community.

The transfer of sentenced foreigners is an alternative way of executing the sentence. Sentenced prisoners serving their sentences in their home countries can be rehabilitated, re-socialized and reintegrated in the community better than elsewhere. This is one of the reasons that contributes to the need of sentenced persons to be transferred to the state with which they have social ties and in which they will endure the imprisonment. Conversely, imprisonment in a foreign state, far from family and friends, can be counterproductive since families can provide prisoners

---


with social capital and support, which improves the likelihood of successful reintegration\textsuperscript{25}.

An argument for encouraging the transfer of sentenced persons is found in international human rights law. Thus, Article 10, paragraph 3, of the International Covenant on Civil and Political Rights\textsuperscript{26}, states that the “basic purpose” of the penitentiary system is “the reformation and social rehabilitation” of the prisoners\textsuperscript{27}. On the same line are NMRSMRDP and EPR.

The second argument in favor of the transfer of sentenced persons is the fact that serving the sentence of imprisonment in their own state is more humane. Differences in language, culture and religion, and the distance from family and friends can increase the difficulty of imprisonment and exacerbate the impact of the sentence imposed. This, especially if the conditions and regime in the prison in the state where the person is sentenced are particularly bad or do not comply with the international minimum standards\textsuperscript{28}.

Furthermore, there are many significant benefits from the transfer of sentenced persons to the implementation of the law. If there is no program for the transfer of prisoners, the majority of foreigners serving a prison sentence in a foreign state, however, will one day be deported to their own state. Thus, with the transfer the state can save funds that it will use for its citizens who serve imprisonment. The transfer of sentenced persons also strengthens diplomatic relations between states\textsuperscript{29}.

The next argument in favor of the transfer of sentenced persons is practical

\begin{itemize}
\item\textsuperscript{26} Article 10, paragraph 3, of the International Covenant on Civil and Political Rights, which, as of 25 January 2011, has been ratified or acceded to by 167 States. https://www.ohchr.org/en/professional-interest/pages/ccpr.aspx Accesssed on: 8.12.2018.
\item\textsuperscript{29} In the Framework decision 2008/909 /JHA (framework decision 2008/909/JHA), the relationship between states has been developed by applying the principle of mutual recognition in the field of the transfer of convicted prisoners. This means that states accept the results of the trials of others and, if certain formalities are met, do not jeopardize them further. Ideally, mutual recognition should allow for simplification of the transfer process and, where necessary, transfer more sentenced persons.
\end{itemize}
reasons, since the large number of prisoners who are foreign nationals requires additional administrative and other resources.

To conclude, the transfer of sentenced persons will encourage rehabilitation and at the same time is the most humane way of serving prison sentences for sentenced persons. In addition, transfers will help in public protection and will serve to reduce the costs of executing prison sentences, although, in practice, this may not always be the case\textsuperscript{30}.

Otherwise, the most important documents referring to the transfer of sentenced persons are the Convention on the Transfer of Sentenced Persons, Strasbourg, 21 March 1983\textsuperscript{31} and Additional Protocol to the Convention on the Transfer of Sentenced Persons, Strasbourg, 18.XII.1997\textsuperscript{32}.

2.3 By-laws

2.3.1 House rules for convicts serving prison sentences in penitentiary institutions

In January 2012, the Directorate for Enforcement of Sanctions (DES) adopted the House Rules for sentenced persons serving prison sentences in a penitentiary institution\textsuperscript{33} which is unified and applies to all penitentiary institutions. With this House Rules, the organization of the work and the way of life of the convicts in the penitentiary institution is more closely determined.

According to the House Rules for convicts serving prison sentences at penitentiary institutions (January 2012), if the convict is a foreign citizen, the appropriate embassy or diplomatic mission is informed of the reception in the institution (Article 7 paragraph 4).


Article 73 stipulates that if the sentenced person is a foreign citizen or has dual citizenship, upon prior announcement and received permission to visit the Director of the Directorate for Execution of Sanctions, a visit is made by a consular representative of the country whose citizen is the sentenced person.

The remaining members fully apply equally to all sentenced persons. Thus, in the House Rules, provisions for classification, deployment and displacement of sentenced persons are transferred (Article 11-14). Chapter Five of the House Rules regulates the status of sentenced persons. The provisions for accommodation of convicts are moved (Article 15-16), schedule of daily activities (Article 17-18), clothing and bedding (Article 19) maintenance of hygiene (Article 20), personal hygiene (Articles 21-23), nutrition (24-25), work (Articles 26-32), rest (Article 33-34), leisure time (Article 35), religious rights (Article 36), right to education and vocational training (Article 37-39), right to being informed (Article 40). The right to health care for sentenced persons is regulated in a separate chapter, chapter five (Article 41-46). The seventh chapter deals with the disciplinary and material responsibility of sentenced persons (Articles 47-61). Contacting the outside world is regulated in the eighth chapter of the House Rules (62-79). The convenience of the convicts, however, are regulated in the ninth chapter (Articles 80-94). The tenth chapter contains provisions on the release of sentenced persons (Articles 95-98).

### 2.4 Law on International and Temporary Protection

The new Law on International and Temporary Protection harmonized with the European acquis, i.e. the legislation in the field of asylum and international protection.  

---

34 DIRECTIVE 2011/95/EU OF THE EUROPEAN PARLIAMENT AND COUNCIL from 13 December 2011 for standards to be fulfilled by persons who are nationals of third countries or stateless persons in order to qualify as beneficiaries of international protection, equal status for refugees or persons with subsidiary protection rights and the content of the protection granted; 2. DIRECTIVE 2013/32/EU OF THE EUROPEAN PARLIAMENT AND COUNCIL from 26 June 2013 for a joint procedure for the granting and withdrawal of international protection; 3. DIRECTIVE 2013/33/EU OF THE EUROPEAN PARLIAMENT AND COUNCIL from 26 June 2013 for the establishment of standards for the reception of applicants for international protection and 4. DIRECTIVE OF THE COUNCIL 2001/55 OF THE EUROPEAN PARLIAMENT AND COUNCIL from 20 July 2001 for minimum standards for the provision of temporary protection in the event of a mass influx of displaced persons unable to return to their country and establishing a balance between the activities of the Member States in the reception of displaced persons and in the suffering the consequences of such activities.
This law regulates the conditions and procedure for obtaining the right to international protection (asylum), as well as termination, abolition of the asylum of a foreigner or stateless person, as well as the rights and duties of the asylum seekers and the persons who have been granted the right to asylum in the Republic of Macedonia. This Law also regulates the conditions under which the Republic of Macedonia may grant temporary protection, as well as the rights and duties of persons under temporary protection (Article 1 of LITP).

According to the Law, “international protection” is the status of a refugee or status of a person under subsidiary protection, and “temporary protection” is a protection granted in a special procedure in the event of a mass influx or immediate danger of a mass influx of displaced persons from third countries who do not may return to their country of origin, unless there is a risk that the procedure for recognizing the right to asylum can not be enforced due to the mass influx, in the interest of the displaced persons and other persons seeking international protection (Article 2 paragraph 1 item 1 and 3 LITP).

The right to asylum is granted under the conditions and procedure provided for in this Law, to the following categories of persons: person with a refugee status (refugee according to the Geneva Convention\(^{35}\) in accordance with the provisions of this Law (Article 3 of LITP).

Asylum seekers are entitled to legal aid and explanation regarding the conditions and procedure for recognition of the right to asylum, as well as the right to free legal aid at all stages of the procedure, in accordance with the regulations on free legal aid. The asylum seekers, at all stages of the procedure can contact persons providing legal aid and representatives of the High Commissioner for Refugees. The representatives of the High Commissioner for Refugees have the right to access and contact with the asylum seekers at all stages procedure, wherever they are (Article 22 LITP).

According to the Law on Free Legal Aid (LFLA)\(^{37}\), the right to free legal aid also

---

\(^{35}\) “Genève Convention” is the 1951 Convention regarding the Status of Refugees and the 1967 Protocol regarding the Status of Refugees (Article 2 of the LITP).

\(^{36}\) “Person under subsidiary protection” shall mean a foreigner who meets the conditions for recognizing the status of a person under subsidiary protection within the meaning of Article 9 of this Law (Article 2, paragraph 1, item 7 of the LITP). “Status of a person under subsidiary protection” is the recognition of a foreigner as a person under subsidiary protection (Article 2 paragraph 1 item 8 of the LITP).

\(^{37}\) Official Gazette of the Republic of Macedonia” No.161/09, 185/11, 27/14 and 104/15.
includes: a person who has been granted the right to asylum (Article 12, paragraph 3, indent 1).

With the LITP, the procedure for recognizing the right to asylum is regulated in the second chapter (Articles 23-49). Among other things, it is pointed out that from the day of the pronouncement of the intention and the submission of a request for recognition of the right to asylum until the date of the final decision, the provisions of the Law on Foreigners. The submitted application for recognition of the right to asylum shall be considered as a withdrawal of the application for issuance of a foreigner’s residence permit in terms of the provisions of the Law on Foreigners (Article 24 of the LITP).

In the third chapter of the LITP, the termination, annulment and abolition of the right to asylum is regulated (Article 50-52 of LITP). The next, fourth chapter refers to documents (Articles 53-59 of LITP), and the fifth chapter regulates the legal position, that is, the rights and duties of the asylum seekers, the persons with refugee status and the persons under subsidiary protection (Article 60-78 LITP). Issues of voluntary departure and voluntary repatriation are regulated in the sixth chapter of LITP (Articles 79-80). The application of expulsion provisions of the Law on Foreigners is regulated in the seventh chapter (Article 81), and the eighth chapter refers to the right to temporary protection (Article 82-89). Chapter nine deals with the processing and protection of personal data (Article 90-92 of LITP), and in the tenth chapter misdemeanor provisions are provided (Articles 93-95 of LITP). In the eleventh chapter of Article 96, the Minister of Internal Affairs is authorized to issue a by-law.

Otherwise, until the adoption of the LITP, the Law on Asylum and Temporary Protection (LATP) was the basis of the legal framework for treatment of refugees and asylum seekers in the Republic of Macedonia. It contains provisions in accordance with the 1951 Convention on the Status of Refugees. LATP was enacted in 2003, and until the adoption of the LITP, LATP was amended eight times.

As a result of the refugee crisis and the large number of asylum applications filed in the Republic of Macedonia, amendments were adopted in June 2015.38 Pursuant to the amendments, it is envisaged to express an intention to submit a request for recognition of the right to asylum. A foreigner at the border crossing point or inside the territory of the Republic of Macedonia may express orally or in written his

38 Official Gazette of the Republic of Macedonia, No.101 from 18.06.2015.
or her intention to submit a request for recognition of the right to asylum in front of a police officer of the Ministry of Interior. The police officer shall record the personal data of the foreigner who stated his intention, issue him a copy of the confirmation of the stated intention and direct him to submit an application for recognition of the right to asylum to the authorized official in the premises of the Asylum Section that are in Reception center for asylum seekers. If the foreigner does not act in this way, then the regulations for foreign nationals are applied (Article 16 LATP).

**Issues for the purpose of submitting an application for recognition of the right to asylum are regulated in Article 25 of the LITP.**

The asylum seeker may apply for recognition of the right to asylum in front of the police at the border crossing point, the nearest police station or in the premises of the Asylum Section located in the Reception Center for asylum seekers. If the request is submitted to the police at the border crossing point or at the nearest police station, the police officer conducts the asylum seeker to the Reception Center for asylum seekers. The asylum seeker, who resides on the territory of the Republic of Macedonia, submits a request for recognition of the right to asylum to the Department of Asylum. In cases of family reunification, the application may be submitted to the diplomatic-consular representation of the Republic of Macedonia abroad (Article 16-a of LATP). This issue is now regulated in Article 26 of the LITP.

The proposed solution allowed refugees to express their intention to apply for recognition of the right to asylum in front of a police officer. They then have the opportunity to submit such a request within 72 hours. During the period from the declaration of the intention to the submission of the request, they were not considered as illegal migrants, which enabled them to temporarily free movement and legal use of the means of public transport.

Amendments in the LATP of 2015 and 2016 have brought improvements in the area of access to territory and asylum procedures, as well as in the conditions for detaining persons seeking international protection, but also restrictions on family reunification and the definition of the term “safe third country” in a way that causes a serious violation of the rights of refugees and asylum seekers.

The Ombudsman of the Republic of Macedonia, the NGO “Macedonian Young Lawyers Association”, the NGO “Open Gate” - La Strada, the NGO “Legis” and the Helsinki Committee for Human Rights of the Republic of Macedonia have submitted an initiative to amend the Law on Asylum and Temporary Protection in order to verbally respect the principle of Family unification of members of the immediate family of a recognized refugee or a person under subsidiary protection, without any time
levels for exercising the guaranteed rights and taking into account the best interests of the child, as well as harmonization of the text with EU law, by deleting the provisions that are in direct contradiction with the European Directives. As stated in the initiative, the amendments should contribute to the removal of the provisions of the Law that are contrary to the European directives, the generally accepted principles that provide for the treatment in accordance with the best interest of the child and the indications of relevant international organizations that take care of the respect of the rights of refugees/migrants, while at the same time it also brings into question the coherence of the Law itself.

The UNHCR also has relevant comments and remarks regarding the LITP, which refer to issues of family unity and family reunification, as well as the provision on limiting the freedom of movement under Article 63.

2.5 Law on Foreigners

On May 28, 2018, a new Law on Foreigners was adopted. Pursuant to Article 226 of the Law, this Law shall enter into force on the eighth day from the day of its publication in the “Official Gazette of the Republic of Macedonia”, and it shall be applied after one year from the day of its entry into force.

This Law regulates the conditions for entry, exit, departure, stay, return of foreigners with illegal residence, as well as the rights and duties of foreigners in the Republic of Macedonia (Article 1). Article 2 of the Law defines the separate terms used in this law. In Article 2, paragraph 1, item 6 defines “international protection” as a refugee status or status of a person under subsidiary protection in accordance with the law.

Pursuant to Article 3 of the Law, the provisions of this Law apply to all foreigners, except for foreigners who: require international protection from the Republic of

41 Law on Foreigners (Official Gazette of RM, No. 97 from 28.5.2018).
Macedonia in accordance with the Law on International and Temporary Protection, unless otherwise stipulated by this Law or under international law enjoy privileges and immunities, if the application of this law is contrary to the undertaken international obligations and the principle of reciprocity. We can conclude that in relation to this issue, there is only a harmonization of the terminology in accordance with the new LITP.

Pursuant to Article 10 paragraph 3 of the Law, the provision regarding illegal entry does not apply to a foreigner who has requested recognition of the right to international protection in accordance with LITP.

Furthermore, pursuant to Article 19, an entry of a foreigner can not be refused to a foreigner: who shows the intention to apply for recognition of the right to international protection in the Republic of Macedonia, which will apply for recognition of the right to international protection at the border crossings in the Republic of Macedonia or to whom the Republic of Macedonia has recognized the right to international protection.

Regarding the rights of trafficked persons during the period of recovery and reflection, the victim of trafficking in a language that can understand is reported on ... the exercise of the right to asylum ... (Article 122 paragraph 2).

Pursuant to the provision of Article 129 paragraph 2, permanent residence shall also be granted to a person under international protection who, at least five years prior to submitting the application for permanent residence permit, has been permanently residing on the territory of the Republic of Macedonia in accordance with this status. On the other hand, permanent residence will not be granted to a foreigner who has an approval to stay in the Republic of Macedonia on the basis of temporary protection or to apply for a residence permit on that basis and awaits a decision on his status; has filed an application for international protection and no final decision has been made in the procedure for recognition of the right to international protection (Article 129 paragraph 4).

The conditions for granting permanent residence to a foreigner and a person under international protection are regulated in Article 130 of the Law.

The provision on the reasons for unlawful residence under Article 147 does not apply to a foreigner who has requested recognition of the right to international protection in accordance with the Law on International and Temporary Protection (Article 147, paragraph 3).

The provisions for expulsion of a foreigner under Article 149 shall not apply to
a foreigner who requires international protection from the Republic of Macedonia in accordance with the Law on International and Temporary Protection (Article 149 paragraph 4).

Furthermore, in a case when the foreigner has applied for asylum, the entry ban will be interrupted, and when he/she is granted refugee status or a person under subsidiary protection, the entry ban shall be withdrawn (Article 153 paragraph 8).

The law also provides for the establishment of a Reception Center for Foreigners at the Ministry of the Interior. In addition, in the Reception Center, a asylum seeker can be accommodated, for which a decision has been taken on limiting the freedom of movement in accordance with the law (Article 159 paragraph 4).

The law also provides for the establishment of an Integrated Database for Foreigners including data on asylum, migration and visas in the Ministry of Internal Affairs (Article 200 paragraph 1).

Given the fact that the current Law on Foreigners (LF) is still in force, we further refer to the characteristic provisions of the same.

LF regulates the conditions for entry, abandonment and stay of foreign nationals in the Republic of Macedonia, as well as their rights and duties (Article 1). A foreign national in the sense of this law is a person who is not a citizen of the Republic of Macedonia. A foreign national is a person without citizenship, that is a person who is not considered by any state by virtue of its law as its own citizen (Article 2).

The provisions of this Law shall apply to all foreign nationals, except for foreign nationals who: seek protection from the Republic of Macedonia in accordance

42 Article 159: (5) In a separate room for minors within the Reception Center, an unaccompanied minor is placed, which for objective reasons can not immediately be handed over to the body of the state of which he is a citizen, and the Center for Social Work is informed about this for the purpose of determining a guardian in accordance with the Family Law. (6) In the cases referred to in paragraph (5) of this Article, the principle of best interest of the child shall be respected. (7) Unaccompanied minors and families with minor children are kept in the Reception Center only in the last resort and for as short a period of time as possible. (8) During the accommodation of foreigners in the Reception Center, they will be allowed to participate in free and recreational activities appropriate to their age, legal, social, medical and psychological assistance, as well as the right to education in the educational institutions in the Republic of Macedonia.

with LATP, unless otherwise stipulated by this Law, enjoy privileges and immunities under international law if the application of this Law is contrary to the undertaken international obligations and the principle of reciprocity (Article 3 of the LF).

Pursuant to Article 25, a foreign national can not be denied entry: if he/she declares his intention to apply for recognition of the right to asylum in the Republic of Macedonia, if he/she has submitted a request for recognition of the right to asylum in the Republic of Macedonia, to whom the Republic of Macedonia recognized the right to asylum, if he/she owns a valid and recognized travel document with a residence permit in the Republic of Macedonia or if he/she possesses a valid and recognized travel document with a diplomatic or service identity card.

A permanent residence permit will not be issued to a foreign national who has stayed in the Republic of Macedonia: ... as a recognized refugee or who has applied for recognition of the right to asylum, and for which a final decision has not been made in a procedure determined by law ... 87 paragraph 3 line 8 LF).
The last few years was noticed by the emergence of the worst refugee crisis in Europe since the end of World War II, with almost 1.3 million people seeking asylum in 2015, mainly on ships from Turkey or North Africa. The vast majority are Syrians fleeing the country’s devastating collapse, even though they were followed by people from Iraq, Afghanistan, Eritrea and many other troubled countries.

The Republic of Macedonia is one of the transit countries for refugees heading to EU. According to information from the Macedonian Red Cross, over 62,500 refugees crossed the country during July and August 2015. According to UNICEF, more than 64,000 people are registered at the shelter in Gevgelija on the border with Greece. The vast majority of refugees are Syrians (81%), Afghans (5%), Iraqis (5%) and Pakistanis (3%). Other asylum seekers come from Somalia, Palestine, Congo and Cameroon. Although the number of reported refugees varies across different sources of information, the actual numbers are much higher; the number of registered accounts for about half of the total number of people transiting the country.

In principle, international law, enhanced by the United Nations High Commissioner for Refugees, provides a framework for dealing with this crisis. The 1951 Refugee Convention also identifies which individuals seek international protection - those with a founded fear of persecution - and what are the minimum responsibilities of states to such individuals, above all, the duty not to return them to places

---


where they face persecution. When drafting the Convention in 1951, states also explicitly committed themselves to a key principle: they will act together “in a true spirit of co-operation” to provide lasting solutions to the plight of refugees.\(^46\)

The Office of the United Nations High Commissioner for Refugees (UNHCR) is responsible for overseeing the implementation of the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol\(^47\).

The Republic of Macedonia has signed and ratified the Convention and acceded to the Protocol on the Status of Refugees\(^48\) from 1967. Thanks to the amendments to the Law on Asylum of 18 June 2015, refugees have the opportunity to apply for asylum on the border with the Republic of Macedonia, receive a document that allows them to travel legally in Skopje and apply for asylum within 72 hours. As a result, 53,571 people have applied for asylum in the country from June 19 to September 1. Another 10,000 were registered during the first week of September 2015. On September 9, 2015, the European Commission issued a proposal for EU regulation establishing a common EU list of safe countries of origin and amending the 2013/32 / EU Directive. The proposal also includes R. Macedonia\(^49\).

The main institution that finances and coordinates humanitarian actions in the region is UNHCR, which works closely with the Red Cross in the Republic of Macedonia, as well as several partners and NGOs such as “Kalugjerka”, “Legis” and “Pomosh na migrantite”. There are several other organizations working with state organs: “HERA”, “IOM”, “La Strada Open Gate”, “Macedonian Association of Young Lawyers”, “UNDP”, “UNFPA”, “UNICEF” and “WHO”.

Respect for the rights of migrants and refugees is one of the issues that the NP as NPM has paid special attention to since 2011. According to Article 31 and 31-a of the Law on the Ombudsman (“Official Gazette of the Republic of Macedonia” No. 60/2003, 114/2009, 181/2016, 189/2016 and 35/2018), the Ombudsman pays


special attention to the protection of the constitutional and legal rights of persons deprived of their liberty. The Ombudsman-National Preventive Mechanism in the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment has the authority to regularly examine the treatment of persons deprived of liberty, make recommendations to the relevant authorities and propose amendments and additions of legal regulations.

For the realization of these activities, NP-NPM regularly and consecutively visits the places where persons are or may be deprived of their liberty. Deprivation of liberty means any form of detention or imprisonment, or the detention of persons in public or private capacities in which the person is not allowed to leave them arbitrarily. For this purpose, the NP-NPM also conducts regular follow-up visits to the transit centers Vinojug and Tabanovce, the Reception Center for asylum seekers Vizbegovo and the Reception Center for foreigners Gazi Baba.

From the NPM’s reports can be noted that poor conditions were found in the asylum seekers’ center and the Foreigners Center. The NP addressed recommendations to the competent authorities and institutions for improving the conditions, but at the same time appealed that the Republic of Macedonia is not ready for the refugee crisis that was at the very beginning. When in 2015, the refugee crisis reached its peak, the insufficient readiness and expertise of the institutions and the competent authorities came to light. The NP as an institution seriously fights for respecting the rights of migrants and refugees. Through the regular visits of the NPM team to the centers hosting migrants and refugees to date, sharp criticisms as well as appropriate recommendations on the conditions and the level of respect for the rights of these persons are given. The general conclusion of the NP in the last report is that “... The year marked the policy of closed borders, accepted and implemented by the Macedonian authorities. Such a policy is a direct disrespect of the refugee law principles provided for in the Convention on the Status of Refugees and in other international documents to which Macedonia is a signatory. This policy also exacerbated the already difficult situation of persons seeking international protection by inciting illegal migration along with all the security risks it brings to the lives and
safety of migrants and refugees...

During 2017, as in previous years, the team of the National Preventive Mechanism continued with continuous visits and monitoring in the Transit Centers Vinojug and Tabanovce, as well as in the Reception Center for Foreigners in Gazi Baba and the Reception Center for accommodation of asylum seekers in Vizbegovo. The purpose of the visits was through insight into the material conditions and documentation, through interviewing the persons accommodated in these centers and with the officials, to identify possible risks for the prevention of torture and other cruel and inhuman treatment and punishment, as well as to improve the legal protection system and to ensure the smooth realization of their guaranteed rights.

Regarding the procedure for access to the right to asylum, the National Preventive Mechanism concluded that most of the detainees are aware of the possibility of applying for recognition of the right to asylum in the Republic of Macedonia, but the opportunity to exercise this right is given after their testimony before the appropriate court in proceedings against third parties. Thus, detainees in the Reception Center for Foreigners continue to face difficulties in accessing the procedure for recognition of the right to asylum. Furthermore, the MoI conducts readmission to refugees without their timely information that they are in the process of forced return, whereby it also applies the same to persons for whom a family reunification procedure has been initiated.

The most serious omissions found in the Special Reports of the Ombudsman include: Illegal Decisions adopted by an incompetent authority, non-issuance of de-

50 The NPM concluded that in the reporting year the problem of illegal detention of persons at the Foreigners Center remained unresolved. Namely, the practice continues to detain the persons in the Center with decisions of the Ministry of Internal Affairs for the purpose of determining the identity, although the sole competent to reach a decision for detention on this basis is the court. One of the main observations of the NPM highlighted in the special reports is the lack of information about persons in terms of duration and reasons for detention. Although the detained persons are provided with copies of the decisions for their detention, which are in Macedonian and English, due to the lack of an interpreter, many of the people who do not understand Macedonian and English are not familiar with the content of the decisions, so they usually do not exercise the right to lodge an appeal. At the same time, these persons are not familiar with the House Rules in the Center, although they are publicly displayed in several visible places in the accommodation facilities. "Ombudsman (March, 2018) Annual report on the level of ensuring respect, promotion and protection of human freedoms and rights. http://ombudsman.mk/upload/Godisni%20izvestai/GI-2017/GI-2017.pdf Accessed on: 11.12.2018.

 cisions for detention in a hostel for foreigners of persons who are detained, concealment of the actual number of accommodated persons in the Center and accommodation of persons who are not recorded in the registers of the Ministry of the Interior, denial of the right to walk and access to the procedure for recognition of the right to asylum and detention of foreigners as witnesses in criminal procedure.
In the period of November 14 and 15, 2018, a visit to the PCI Idrizovo was made. At the time of the research a total of 102 foreign prisoners were imprisoned in the PI Idrizovo. Out of these, 99 are men, and three are women. Out of the total number of foreign prisoners, 13 are from countries affected by the so-called “refugee crisis” (Afghanistan, Pakistan, Iran and Sudan). The survey covered a total of 55 foreign prisoners, of which all 13 were from Afghanistan, Pakistan, Iran and Sudan, and the remaining 42 from other countries, taking into account the percentage of foreign prisoners from all countries.

The methodological framework of the research is explained in the introduction to this study.

1.1 General information about foreign prisoners

1.1.1 Gender of foreign prisoners

Out of the total number of foreign prisoners 99 (97.1%) are men, and three (2.9%) are women.
1.1.2 Citizenship of foreign prisoners

Out of the total number, 13 (12.7%) are from Afghanistan (2), Pakistan (9), Iran (1) and Sudan (1). The rest are from Albania (35), Bosnia and Herzegovina (1), Bulgaria (7), Kosovo (8), Serbia (10), Croatia (5), Czech Republic (1), Sweden (1) Some of the prisoners are foreigners with dual citizenship (18), and three are unregulated status. The three women prisoners are: one from Bosnia and Herzegovina, one dual citizenship of Macedonia and Albania, and the third is a bipatride from Romania and Moldova.
1.1.3 Year of birth of foreign prisoners

The largest number of foreign prisoners were born in the age group 30-39 - 30,4%. Then, the age groups 21-29 - 28.4%. The age group 40-49 participates with 17,6%, the age group 50-59 with 16,7% and the age group 60+ with 6,9%
Graph no.3 - Number of prisoners foreigners per year of birth

As far as the age group is concerned regarding the male foreign prisoners, the distribution is the following. With participation of 29,3% (29 foreign prisoners) the age group 21-29 and 30-39 are present. Eighteen (18,2%) foreign prisoners are in the age group 40-49 years of age, 16 (16,2%) are in the age group 50-59 and seven (7,1%) are over the age of 60 years.
The age of female prisoners are the following. One was born in 1961 (57 years old), the second in 1980 (38 years) and the third in 1987 (31 years). As for foreign prisoners from the refugee countries, two were born in 1983 (35 years old), two were born in 1991 (27 years old), and one is aged 44, 42, 33, 30, 26, 25, 23, 22, 21 years of age. It can be concluded that those in the age group 21-29 dominate with 53.8%; followed by the age group 30-39 with a participation of 30.8% and the age group 40-49 - 15.4%.

Graph no.4 - Number of prisoners foreigners per ages (men)

Graph no.5 - Number of prisoners of foreign nationals from refugee countries (Afghanistan, Pakistan, Iran and Sudan)
1.1.4 Criminal act for which foreign prisoners serve sentence

The majority of the crimes committed by foreign prisoners are according to Article 215 from the Criminal Code of the Republic of Macedonia, that is, unauthorized manufacture and release for sale narcotic drugs, psychotropic substances and precursors. Even 41.2% are serving a prison sentence for this crime, most often for the qualified form under paragraph three, or if the offense was committed by more than one person or the perpetrator of this crime organized a network of resellers or intermediaries. The next crime according to its frequency of occurrence is the act under Article 418-b, smuggling of migrants (18.6%). The majority are referred to in paragraph 4, that is, if the crime is committed with a minor. Following are the criminal acts of murder according to Article 123 (7 criminal acts), then the criminal offenses under Article 394-a, terrorist organization (7 criminal acts), six criminal acts robbery under Article 237 of the CCM, four acts kidnapping under Article 141.

The data are summarized in the graph below.

*Graph no.6 - Number of criminal offense committed by prisoners foreigners*

Women prisoners are perpetrators related to the following crimes. One is serving a sentence of imprisonment for committing a crime of murder under Article 123 of the Criminal Code. The second for the qualified form of criminal act unautho-
rized manufacture and release for sale of narcotic drugs, psychotropic substances and precursors according to Article 215 paragraph 3 of the CCM and the third for establishing a slavery relationship and transport of persons in slavery to a juvenile under Article 418 paragraph 3 of the CPM.

Foreign prisoners who are descended from Afghanistan, Pakistan, Iran and Sudan are serving a prison sentence for the following crimes. Five are convicted of a criminal offense under Article 418-b paragraph 4, smuggling of migrants committed with a minor. Four for the criminal act of abduction under Article 141 of the CCM. Two for organizing a group and encouraging the execution of acts of trafficking of human beings, trafficking with a minor and smuggling of migrants according to Article 418-c paragraph 3 of the CCM. One person has been convicted for the production and distribution of child pornography (Article 193-a paragraph 1) and smuggling of migrants (art.418-b art.3) of the Criminal Code.

Graph no.7 - Number of criminal offenses committed by foreign prisoners from refugee countries (Afghanistan, Pakistan, Iran and Sudan)

![Graph](image)

1.1.5 Criminal history of the foreign prisoners

Of the total number of foreign prisoners, 83,64% (46) are first-rate offenders, 10,91% (6) are recidivists and 5,45% (3) are multiple recidivists.
Twelve (92.3%) of foreign prisoners from Afghanistan, Pakistan, Iran and Sudan are first offenders, and only one person is a recidivist (7.7%).

1.1.6 Education for foreign prisoners

Regarding the level of education of foreign prisoners, one is illiterate (1.82%), 16 (29.09%) have completed primary education, 30 (54.55%) have completed secondary education, four (7.27%) have completed higher education, one (1.82%) - another and three (5.45%) did not respond.

From the foreign prisoners originating in the countries from the refugee crisis, six have completed primary education, five of them have secondary education and two of them higher education.
1.1.7 Marital status of the foreign prisoners

Regarding marital status, high percentage of 52,73% (29 foreign prisoners) are married, then 32,73% (18) are unmarried, and 10,91% (6) are divorced.

As for the persons from Afghanistan, Pakistan, Iran and Sudan, 61,54% are married, or eight prisoners, four (30,77%) are single and one (7,69%) is divorced.
1.1.8 Occupation of the foreign prisoners

Regarding the occupation of foreign prisoners, most are workers. As far as prisoners from Afghanistan, Pakistan, Iran and Sudan are concerned, two are construction engineers, one is an electrician, a farmer, a horse rider, a tailor and one is unemployed, two are sellers and two are workers. The data are given in the graph.
1.1.9 Health condition of foreign prisoners

Regarding the state of health, 35 (63.64%) foreign prisoners stated that they are in good health, 17 (30.91%) - stated that the health condition is bad, three (5.45%) - excellent. However, most have said that when they have a problem, access to NPM\textsuperscript{52} and KPT\textsuperscript{53}.

\textsuperscript{52} http://ombudsman.mk/MK/nacionalen_preventiven_mehanizam/izveshtai/godishni_izveshtai.aspx

\textsuperscript{53} https://www.coe.int/en/web/cpt/-the-former-yugoslav-republic-of-macedonia?-desktop=false
1.1.10 Addiction of foreign prisoners

Out of the total number of foreign prisoners, 49 foreign prisoners (89,09%) are not addicted, five (9,09%) are addicted and one (1,82%) did not answer the question. None of the prisoners originating in Afghanistan, Pakistan, Iran and Sudan is an addict.

Graph no. 14 - Number of foreign prisoners - drug addicted
1.2 Status of foreign prisoners

1.2.1 Classification

The largest number of foreign prisoners are classified in a closed class, treatment group B1 and B2 and they have not progressed, hence, they do not use any benefits.

1.2.2 Accommodation

Regarding the conditions for accommodation, the question, On a scale from 1 to 5, how do you assess the accommodation conditions? 47 (85.45%) gave grade 1, two (3.64%) gave grade 2, five (9.09%) - grade 3 and one (1.82%) prisoner gave an assessment 5. Prisoners from Afghanistan, Pakistan, Iran and Sudan responded 1 - ten, two gave grade 3 and one - grade 5

Graph no.15 - Number of foreign prisoners who declared themselves about the accommodation conditions?

1.2.3 Clothiers and bedding

When asked if the institution provided you with clothes and bedding or use their own, three (5.45%) responded “yes”, 24 (43.64%) responded “no”, and 28 (50.91%) answered that they use their own.
Graph no.16 - Number of foreign prisoners who answered to the question: Does the institution provide clothes and bedding or the prisoners use their own?

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
<th>USE THEIR OWN</th>
<th>NO ANSWER</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>24</td>
<td>28</td>
<td>0</td>
</tr>
</tbody>
</table>

1.2.4 Personal hygiene

35 prisoners (56.36%), when asked about the conditions for maintaining personal hygiene answered they use their own hygienic means, three (5.45%) responded “yes” and 21 (38.18%) responded “no”.

Graph no.17 - Number of foreign prisoners who answered to the question: Does the institution provide condition for maintenance of personal hygiene?

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
<th>USE THEIR OWN</th>
<th>REFUSES TO MAINTAIN HYGIENE</th>
<th>NO ANSWER</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>21</td>
<td>31</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

High percentage 83.64% or 46 foreign prisoners, questioned: “On a scale from 1 to 5 how do you assess the hygiene in the institution?” have given a score of 1,
four (7.27%) - gave a score of 2, four (7.27%) - gave grade 3, and one person (1.82%) - grade 4

Graph no.18 - Number of foreign prisoners who evaluated the hygiene in the institution?

![Graph showing hygiene scores for foreign prisoners.](image)

1.2.5 Food

Asked if the food meets the minimum standards, 94.55% or a total of 52 prisoners foreign citizens answered “no”, two (3.64%) answered yes, and one (1.82%) did not respond.

Graph no.19 - Number of foreign prisoners who answered to the question: Does the food meet the minimum standards?

![Graph showing food satisfaction scores for foreign prisoners.](image)
Asked if you were provided with a food that meets your religious needs, 14 (25.45%) answered yes, 39 (70.91%) (all Albanians) responded “no” and two (3.64%) did not respond.

*Graph no.20 - Number of foreign prisoners who answered to the question: Are you provided with food that meets your religious needs?*

1.2.6 Rest

When asked, Do you stay out for clean air at least two hours during the day?, 48 (87.27%) responded “yes” and seven (12.73%) responded “no”.

*Graph no.21 - Number of foreign prisoners who answered to the question: Do you stay out at least two hours during the day?*
1.2.7 Work

When asked if they are engaged in work, only three (5,45%) responded affirmatively. One person is engaged as a baker for a fee of 200 denars per month, the second is a gardener, and the third laundry, as he says to earn money for cigarettes. Fifty-two foreigners (94,55%) answered “no”. Most of them said they wanted to work, but they were not allowed, and they link this to the fact that they are foreign citizens and that they are not allowed to be engaged in work.

Graph no.22 - Number of foreign prisoners who answered to the question: Are you engaged in work?

1.2.8 Health care

As many as 47 foreign prisoners (85,45%) asked the question of adequate health care/access to a doctor, answered “no”, three (5,45%) responded “yes”, five (9,09% ) did not give an answer
Graph no.23 - Number of foreign prisoners who answered to the question: Are you provided with adequate health care/access to a doctor?

On the question, Has a doctor seen you within 24 hours after your reception in the Institution?, 18 foreign prisoners (32,73%) responded affirmatively, 36 (65,45%) responded “no”, and one (1,82%) does not respond. Many of the detainees who responded “no” said they had been checked while in detention.

Graph no.24 - Number of foreign prisoners who answered to the question: Has a doctor checked your health you within 24 hours after your reception in the Institution?

On the question, on the scale from 1 to 5, how do you assess the health care in the institution, 44 foreign prisoners (80,00%) graded it with 1, eight (14,55%) - graded it with 2, two (3,64%) - gave a grade 3 and one person (1,82%) - gave a grade
4. Almost everyone said that it is very difficult to get to a doctor when they need it, except in exceptional emergency situations.

This is the condition stated by the NPM\textsuperscript{54} и КПТ.\textsuperscript{55/56}

*Graph no.25 - Number of foreign prisoners who evaluated the health care in the institution?*

![Graph showing health care evaluation of foreign prisoners](image)

**1.2.9 Education and vocational qualification**

When asked, “Are you involved in some educational process or do you attend any appropriate training course?” all 55 (100%) respondents answered “no”.

Although foreign citizens are concerned and it is more difficult to organize education with regard to language barriers, however, this should not be an excuse for their involvement in appropriate vocational training courses.

\textsuperscript{54} http://ombudsman.mk/MK/nacionalen_preventiven_mehanizam/izveshtai/godishni_izveshtai.aspx

\textsuperscript{55} https://www.coe.int/en/web/cpt/-the-former-yugoslav-republic-of-macedonia?-desktop=false

\textsuperscript{56} “The delegation received many complaints about the health care access, which is a little surprising. Officially, prisoners make a request to the director to see the doctor, and the requests are filtered by prison officers. A couple of weeks may pass before the doctors comes, and even then it is not certain that the doctor will call the prisoner. Hence, the CPT proposes requests for medical examination for prisoners to be delivered in a sealed envelope.”
1.2.10 Leisure activities, sport and recreation

When asked how do you spend your free time, most respondents said they did nothing in their spare time, while others said they were walking, reading, watching TV, playing sports, playing chess, cards, dominoes, etc. The data are summarized in the graph. From the responses, it is evident that the prisoners are dissatisfied with the lack of organized leisure activities commenting that they are literally “bored”.
Graph no.27 - Number of foreign prisoners who answered to the question: How do you spend your free time?

From the answers to the question: “On a scale from 1 to 5, how do you assess the organization of free activities, sports and recreation in the institution? (1-very bad, 2-bad, 3-good, 4-very good, 5-excellent), there is evidence that the free time of the prisoners is not organized, and as they stress, except for the two hours they spend outside, the rest of the time is spent in the rooms. Namely, 36 foreign prisoners (65,45%) gave grade 1, 12 (21,82%) - grade 2, four (7,27%) - grade 3, two (3,64%) - grade 2 and one 1.82%) gave grade 5.

Graph no.28 - Number of foreign prisoners who evaluated the organization of free activities, sports and recreation in the institution?
When asked:” Do you use the library and do you have books in the language you understand?, seven (12,73%) answered yes, 45 (81,82%) responded “no” and three (5,45%) did not gave an answer.

Graph no.29 - Number of foreign prisoners who answered to the question: Do you use the library and do you have books in the language that you understand?

1.2.11 Educational-correctional work

To the question:” Do the prison staff do any educational-correctional work?”, worrying were the prisoners’ assertions that they “never met” the educator or that they “met him a month ago” or that they “met once only” etc.

Namely, only five (9,09%) responded “yes”, 89,09% (49 foreign prisoners) answered “no”, and one (1,82%) did not answer.


Graph no.30 - Number of foreign prisoners who answered to the question: Do the prison staff perform educational-correctional work with you?

1.2.12 Satisfying religious needs

When asked if their religious needs were satisfied, 22 (40,00%) responded “yes”, 29 (52,73%) responded “no”, and four (7,27%) did not respond. Most of the prisoners who answered that they are not allowed to meet religious needs are Albanians, and two are from the states from the “refugee crisis”.

Graph no.31 - Number of foreign prisoners who answered to the question: Are you allowed to satisfy your religious needs?
1.2.13 Contact with the outside world

From the answers to the question about the contact with the outside world, 13 (23.64%) foreign prisoners answered with “yes”, and 42 (76.36%) answered with “no”.

*Graph no.32 - Number of foreign prisoners who answered to the question: Do you have a contact with the outside world?*

Asked if correspondence is allowed, 30 (54.55%) said “yes”, 21 (38.18%) - “no”, and 4 didn’t respond (7.27%).

*Graph no.33 - Number of foreign prisoners who answered to the question: Is correspondence allowed?*
The main problem with using the telephone is the problem of dysfunction of the telephone booths.

Although 18 foreign prisoners (32.73%) answered affirmatively to the question, however, the fact remains that they do not call in a legal way, but they manage to buy mobile phones that are strictly forbidden in the penitentiary institutions, and their use is a disciplinary injury. Thirty-seven foreigners (67.27%) answered “no”. Particularly problematic is the case with prisoners from countries from the “refugee crisis” because they do not have funds to buy an illegal mobile phone. They have not had contact with their loved ones for years and they do not even know whether they are alive or dead, or where they are. And these prisoners have families, some of them have children, which is extremely inhumane treatment towards them.

*Graph no.34 - Number of foreign prisoners who answered to the question: Is telephoning allowed?*

Although foreign prisoners are permitted visits, however, there is no one to visit them because their family is far from our country. Fourteen to eighty foreigners (87.27%) responded affirmatively to the question, Are you allowed visits?, and seven (12.73%) answered “no”.
Graph no.35 - Number of foreign prisoners who answered to the question: Are visits allowed?

To the question, “Are you allowed to receive shipments?”, 42 foreign prisoners (76.36%) responded “yes”, 12 (21.82%) - “no”, and one (1.82%) did not respond. Prisoners originating from Afghanistan, Pakistan, Iran and Sudan, although all 13 responded affirmatively, however, they do not receive shipments due to the fact that their family is far away and does not contact with them nor have the opportunity to send them something.

Graph no.36 - Number of foreign prisoners who answered to the question: Are you allowed to accept shipments?
1.2.14 Marriage

To the question, Have you got married while serving a prison sentence?, two (3.64%) responded affirmatively, 46 (83.64%) “no” and seven (12.73%) did not respond.

Graph no.37 - Number of foreign prisoners who answered to the question: Have you got married while serving a prison sentence?

![Graph showing the number of foreign prisoners who answered to the question.]

1.2.15 Convenience

To the question, “Have you been given any conveniences?”, only one (1.82%) prisoner responded affirmatively, 15 (27.27%) responded “no”, and 39 (70.91%) did not respond.

The only prisoner to whom the weekend was granted was actually a bipatride who also has Macedonian citizenship and has a family in our country, so he was granted this convenience. Other foreign prisoners do not have any conveniences. These may consist of more frequent contacts with the outside world, but due to the fear of escape this is not allowed. Additionally to this, they do not have any place of residence here, nor relatives to visit.

Otherwise, all prisoners are allowed the first category of convenience, conveniences consisting of mitigation of the conditions in the institution.
1.2.16 Reallocation due to progress

Asked if they have made any progress, four of them (7,27%) answered „yes“, and 51 prisoner (92,73%) answered „no“. Not one of the prisoners progressed.

Graph no.38 - Number of foreign prisoners who answered to the question: Have you been given any conveniences?

Graph no.39 - Number of foreign prisoners who answered to the question: Have you progressed?
1.2.17 Termination of serving a sentence

To the question, Have you submitted a request for termination of the sentence?, 12 (21.82%) responded “yes”. Two of them are from the “refugee crisis” states. One person answered that there was still no answer to his request, and another one said that his request had not been accepted. Forty one foreign prisoner (74.55%) responded “no”, and two (3.64%) did not respond.

Graph no.40 - Number of foreign prisoners who answered to the question: Have you submitted a request for termination of the sentence?

1.2.18 Relation with the personnel

The foreign prisoners were asked: Did the following means of force (singling out, tying, rubber sticks, water sprays, chemicals and dogs) were applied to you? Four (7.27%) responded affirmatively, 50 (90.91%) responded “no”, and one (1.82%) prisoner did not answer.
On the question: “On a scale from 1 to 5 how do you rate the attitude of the officials towards you?”, 27 (49,09%) gave a score of 1, 11 (20,00%) - 2, 14 (25,45%) - 3, three (5,45%) - 4 and none gave a grade 5.

Graph no.41 - Number of foreign prisoners who answered to the question: Did the following means of force (singing out, tying, rubber sticks, water sprays, chemicals and dogs) were applied to you?

Graph no.42 - Number of prisoners foreigners who rated the attitude of officials against the NAV?

When asked if they were a victim of torture by an official, 12 (21,82%) responded “yes”, 39 (70,91%) responded, and four (7,27%) did not respond.
1.2.19 Escape

Next was the question:” Have you tried to escape?”. All 55 foreign prisoners responded negatively.

1.2.20 Discharge from an institution

1.2.20.1 Pardon

Foreign prisoners were asked:”Have you applied for a pardon?” Eleven foreign prisoners out of whom five prisoners from Afghanistan, Pakistan, Iran and Sudan have answered affirmatively, but none of them have been granted the pardon request. That is, 72,73% did not apply, 20% applied for pardon, and 7,27% have no answer.
1.2.20.2 Conditional release

When asked if you have submitted a request for conditional release, no prisoner has responded positively.
1.2.20.3 Discharge by decision issued by the Director of the institution

Asked if they are informed that the director of the institution can discharge the convict before the expiry of the sentence if he spent at least three quarters of the prison sentence and if he did not receive conditional release up to 30 days for a prison sentence of one year, 90 days for a prison sentence of five years, 120 days for a prison sentence of more than five years?, 13 answered affirmative, and 42 replied with “no”.

Graph no.46 - Number of foreign prisoners who answered to the question: Are you informed that the director of the institution can discharge the convict before the expiry of the sentence?

The next question is: “Will you return to your country after serving the sentence?” 44 foreign prisoners answered “yes”, two of them originating from the so-called “refugee crisis” states. Eleven people, nine of whom originated from the “refugee crisis” countries, responded “no”.


Also, as part of the research, foreign prisoners were asked whether they would be accommodated in a reception center after serving their sentence. One foreign prisoner (with origin from Afghanistan) answered “yes”, 54 (eight of them originating from the so-called “refugee crisis” states) responded “no”.

During the interview, the dissatisfaction of the foreign prisoners was apparent as a result of the negative experience they had with the penitentiary bodies, the
poor conditions for serving the imprisonment sentence, and their obvious desire was to leave our country as soon as possible after being discharged from the penitentiary institution.

1.2.21 Protection of rights through the use of legal remedies

When asked if the institution provide you with information and legal assistance in a language that you understand regarding the protection of your rights?, 10 foreign prisoners responded “yes”, 41 answered “no”, of which 12 prisoners were foreigners originating from the states of so-called. “Refugee crisis“, and four did not respond.

Despite the right to enable the convicts to communicate in their own language, the research made it clear that the institution does not provide translators, interpreters, etc., so prisoners are forced to manage their communication with prison staff, but also with other prisoners.

Graph no.49 - Number of foreign prisoners who answered to the question: Does the institution provide you with information and legal assistance in a language that you understand regarding the protection of your rights?
What is also worrying is the fact that the convicts are not familiar with the procedure for filing requests and appeals.

Thus, to the question, “Are you familiar with the procedure for submitting applications and appeals?”, Even 81.82% (45 prisoners) answered “no”, nine or 16.36% answered “yes” and 1 person (1.82%) did not answer.
Graph no.52 - Number of foreign prisoners who answered to the question: Are you familiar with the procedure for submitting applications and appeals?

To the question, “Have you lodged a complaint to the director of the institution?”, 19 foreign prisoners (34.55%), out of whom three originating from the “refugee crisis” states, responded “yes”, 34 (61.82%) responded “no”. Two of them did not answer (3.64%).

Graph no.53 - Number of foreign prisoners who answered to the question: Have you lodged a complaint to the director of the institution?

To the question, “Have you submitted an appeal to the director of the UIS?”, No one has responded affirmatively.
Foreign prisoners were asked: “Have you submitted an application to the European Committee for the Prevention of Torture and Inhuman Treatment and to the United Nations High Commissioner for Human Rights?” Two (3.64%) responded “yes”, 44 (80%) - answered “no” and nine (16.36%) did not respond.

Graph no. 54 - Number of foreign prisoners who answered to the question: Have you submitted an appeal to the director of the DES?

Graph no. 55 - Number of foreign prisoners who answered to the question: Have you submitted an application to the European Committee for the Prevention of Torture and Inhuman Treatment and to the United Nations High Commissioner for Human Rights?
1.2.22 Disciplinary procedures

For the next question related to the disciplinary sanctions, six (10,91%) responded that they have been sanctioned for disciplinary issues. Three of them were originally from the countries from the “refugee crisis” and all three of them were conditionally sanctioned with a disciplinary measure of solitary confinement for participation in a fight, but as they stated, it was a defense from other prisoners who stole something from them. The remaining 49 foreign prisoners (89,09%) were never disciplined.

Graph no.56 - Number of foreign prisoners who answered to the question: Have you been disciplinary sanctioned?

1.2.23 Asylum

Foreign prisoners originating with origin from Afghanistan, Pakistan, Iran and Sudan were asked if they had status of a recognized refugee or a person under subsidiary protection? No person responded affirmatively. The main impression was that foreign prisoners were not familiar with these categories.
Graph no.57 - Number of foreign prisoners who answered to the question: Is your status the one of a recognized refugee or are you a person under subsidiary protection?

When asked if you are familiar with the asylum procedure, only one (7.69%) answered “yes” and 12 (92.31%) answered “no”.

Graph no.58 - Number of foreign prisoners who answered to the question: Are you familiar with the asylum procedure?

To the question, “Have you submitted an application for asylum in the Republic of Macedonia?”, four foreign prisoners originating from the states of the so-called “Refugee crisis” (30.77%) confirmed, and 9 (69.23%) answered negatively.
To the question, “Have you previously submitted a request for recognition of the right to asylum in another country?”, five (38.46%) foreign prisoners from the “Refugee crisis” countries responded “yes”. All five have applied for asylum in the Republic of Greece. Eight prisoners (61.54%) did not apply.

Only three (23.08%) of the foreign prisoners who come from countries from the “refugee crisis” know what the rights and duties of asylum seekers are, while 10 (76.92%) answered that they do not know. And none of them is familiar with the
term safe third country, as well as the possibility of using legal remedies.

*Graph no.61 - Number of foreign prisoners who answered to the question: Do you know what are the rights and duties of asylum seekers?*

Only one (7.69%) foreign prisoner asked of his intentions to remain in the Republic of Macedonia and seek asylum after serving the prison sentence answered “yes”, 11 (84.62%) responded “no”, and one (7.69%) did not answer. This once again confirmed that foreign prisoners want to leave our country more quickly because of a particularly negative experience with the authorities of the criminal prosecution and the catastrophic conditions for serving the imprisonment sentence.

*Graph no.62 - Number of foreign prisoners who answered to the question: After the serving the imprisonment sentence is your intention to stay in R.Macedonia and seek asylum?*
All 55 foreigners were asked “Do you have appropriate documentation?” Fourteen (25.45%) responded “yes” and 33 (60.00%) of whom all 13 from the countries of “refugee crisis” responded “no”. Eight (14.55%) did not respond. From those who do not have proper documents, only three respondents confirmed that the institution offered assistance to provide appropriate documentation. In the future, the Institution and the UIS must find a way to help all those who do not have the proper documentation.

Graph no.63 - Number of foreign prisoners who answered to the question: Do you have appropriate documentation?

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
<th>No Answer</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>14</td>
<td>33</td>
<td>8</td>
</tr>
</tbody>
</table>

When asked whether the consular representative of their country or the state that protects your interests has visited them, only five (9.09%) responded affirmatively, 40 (72.73%) responded “no”, and 10 (18.18%) did not respond.

It is a big concern that many of them tried to get in touch with a consular representative, but they failed, and those who had made contact were told that they could not come to visit them.

Those originating from the countries from the “refugee crisis”, however, have a problem that in the Republic of Macedonia there are no consular representatives of their countries, so they have requested contact in other countries, such as from the Republic of Serbia. Most complaints were received by Albanian prisoners.

Those prisoners who were not visited by a consular representative were asked “Have you been contacted or were you able to communicate with the diplomatic or consular representative of your country?” Only five answered affirmatively.
Graph no.64 - Number of foreign prisoners who answered to the question: Has your consular representative visited you or the representative of the state that protects your interests?

<table>
<thead>
<tr>
<th></th>
<th>YES</th>
<th>NO</th>
<th>NO ANSWER</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>5</td>
<td>40</td>
<td>10</td>
</tr>
</tbody>
</table>

All interviewed foreign prisoners were asked, “Are you aware of the possibility to be transferred to serve the imprisonment sentence in another country?” Eight (14,55%) responded affirmatively. Some of them have submitted requests, but they still have no answer, while others have not made a request at all because they know that the procedure lasts for too long, more than one year, a year and a half. Thirty-three people (70,91%) are not familiar with this possibility, and eight (14,55%) did not respond.

Graph no.65 - Number of foreign prisoners who answered to the question: Are you aware of the possibility to be transferred to serve the imprisonment sentence in another country?

<table>
<thead>
<tr>
<th></th>
<th>YES</th>
<th>NO</th>
<th>NO ANSWER</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>8</td>
<td>39</td>
<td>8</td>
</tr>
</tbody>
</table>
On the last question from the questionnaire, “After your reception in prison did the prison staff help you inform your family about your imprisonment, or some legal advisor, consular agents and other persons or organizations competent to help you?”, nine (16.36%) responded “yes”, 37 (67.27%) responded “no”, and nine (16.36%) did not respond.

Graph no.66 - Number of foreign prisoners who answered to the question: After your reception in prison did the prison staff help you inform your family about your imprisonment, or some legal advisor, consular agents and other persons or organizations competent to help you?
2. RESULTS OF CONDUCTED INTERVIEW WITH THE PRISON STAFF (ONE EDUCATOR AND TWO REPRESENTATIVES FROM THE PRISON POLICE)

In the framework of the research, an interview was conducted with an educator working with foreign prisoners. The interview was conducted by asking open questions. A conversation was also conducted with two representatives from the prison police.

From the conversation we present the following conclusions. When asked by the NP-NPM team whether foreign prisoners are serving the sentence of imprisonment in a special department for convicted persons who are foreign citizens and stateless persons as prescribed by the LIP in Article 23 paragraph 1, it was said that such a unit was not founded but that they serve a prison sentence together with other prisoners.

The educator stated that most of the foreign prisoners are classified in a closed class, treatment group B1 and B2 and they do not progress, hence, they do not use any conveniences. The NP-NPM team that conducted the research considers this to be a discrimination against foreign prisoners.

Then, we were told that this category of prisoners are not engaged in any kind of work and that working (non) engagement is a problem for all prisoners in general.

Regarding the issue with the doctor, this was not seen as a problem by the prison staff, contrary to the claims of interviewed foreign prisoners, but also in accordance with the NPM and NPM statements in their reports.

Furthermore, the prison staff stressed the language barrier, especially with foreign prisoners originating from Afghanistan, Pakistan, Iran and Sudan. Prison au-
thorities noted that some of them have learned the Macedonian language, and to a certain extent their communication with them is easier. However, the problem which the prison staff confirmed is that the institution does not provide interpreters, translators, etc., despite the right of the convicts to be allowed to communicate in their own language.

Furthermore, we were told that the prison staff provided assistance to foreign prisoners related to the protection of their rights by using legal remedies, this being done through the two employees working in the area of legal issues, the educator himself and other employees, including also some of the prisoners as well. They help in the preparation of requests for conditional release, pardon, for the transfer procedure to their home countries, although as confirmed by the prison staff the transfer procedure lasts too long.

The prison staff also highlighted the lack of proper documentation, and that the institution, together with the MIS, is working to find a way to help foreign nationals in providing adequate documentation.

Regarding the conditions for accommodation, the prison staff pointed out that they are the same as for all other prisoners; clothes and bedding, most often they use their own, and those who do not have them are provided by the Institution. As for the food is concerned, we were told that both foreign prisoners and the rest of the prisoners were served the same food.

Regarding the lack of education and vocational education at the institution, the prison staff emphasized that it equally affects the prisoners.

Furthermore, it was said that the foreign prisoners go out to clean air for at least two hours during the day, and organize their free time by watching TV, reading, chess, exercise, etc., and that they are able to satisfy religious needs.

When asked if they were allowed to contact the outside world, the prison staff answered affirmatively, but with regard to telephone calls, the prison staff was aware of the problem with the telephone booths. Then, we were told that foreign prisoners rarely have visits, also rare are the visits from consular representatives, and the prisoners from the countries from the “refugee crisis” have no visits at all, and here the prison staff is incapable of helping them in any way related to this issue.

In general, and especially by the representatives of the prison police, it was pointed out that this category of prisoners are not “problematic” prisoners, that is, they did not have any serious incidents with them.
The research conducted by the NP-NPM supported by UNHCR on the degree of respect for the rights of foreign nationals with a special focus on persons from the refugee crisis who serve imprisonment in the Idrizovo Penitentiary is the first of its kind since all previous analyzes, surveys, studies and similar activities focus on prisoners’ rights in general.

From the analysis of the international and national regulations, as well as from the reports of the Ombudsman and the NPM, and from the results of the conducted research, it can be concluded that in practice there is a discrepancy between the position of the prisoners who are serving prison sentences in the penitentiary unit Idrizovoe de jure and de facto.

The results of the conducted research in the Idrizovo Penitentiary Institution for the degree of respect for the rights of foreign prisoners, with a special focus on the persons from the refugee crisis, have confirmed the main hypothesis, i.e. that it is necessary to improve the unfavorable conditions in the institution in which they serve the sentence of imprisonment, in terms of respecting the standards for serving the sentence of imprisonment referring to accommodation, food, hygiene, etc., providing adequate health care and promoting visits to a doctor, application of forms of treatment, educational work with foreign prisoners, equal approach related to progress and assignment of benefits, promotion of their rights and assistance in the realization of their rights, contact with their family and consular offices in their countries, especially in the part of providing assistance in the asylum procedure and/or transfer to their countries or to other third safe countries.

Furthermore, what is emphasized is the need foreign prisoners to be treated with respect for their human rights and with due regard to their special situation and individual needs. Discrimination should be avoided and attention should
be paid in addressing the specific problems that foreigners may encounter while in prison, in the time of transfer and after release. In addition, the treatment of foreign prisoners should be taken into account as well as their particular needs arising from the fact that they are imprisoned in a state in which they are neither nationals nor residents, in order to provide opportunities similar to other prisoners.

International documents and national regulations emphasize the importance of foreign prisoners to communicate with diplomatic and consular representatives of the state whose citizens they are, or with the diplomatic representative of the state that takes care of their interests or with the domestic or international authority tasked to pay close attention to interests of such persons. It is also emphasized that foreign detainees should be introduced with information regarding appropriate legal assistance, in order to become aware of the possibility to seek transfer so that they can serve the sentence in another country, highlighting the numerous benefits from the transfer of convicted persons which is considered to be the most humane way of serving the sentence.

Additionally stressed is the importance of providing legal assistance to foreign prisoners as well as explanation related to the conditions and the procedure for recognizing the right to asylum, also offering guidelines to prisoners referring to the right of free legal aid at all stages of the procedure. This refers to prisoners who come from the states of the so called “Refugee crisis”.
### CONCLUSIONS AND SUGGESTIONS

<table>
<thead>
<tr>
<th>CONCLUSION</th>
<th>SUGGESTIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>In the PI Idrizovo, a department for foreign nationals and stateless persons has not been established, thus opposing the Law on Execution of Sanctions where this issue is stipulated.</td>
<td>To establish a special department for convicted persons who are foreign citizens and stateless persons, given the large number of foreign prisoners, as well as the specific needs of this category of prisoners.</td>
</tr>
<tr>
<td>The institution does not provide interpreters, so prisoners are forced to manage with difficulties their communication with prison staff however, but also with other prisoners, thus violating the right of convicts to communicate with the Department, the institution or other state bodies using their language.</td>
<td>Foreign prisoners should be provided with an interpreter as well as opportunities to learn Macedonian language or other language that will enable them to communicate more effectively.</td>
</tr>
</tbody>
</table>
## CONCLUSION

| Prisoners immediately after their admission to the Institution are not offered help by the prison staff so that they can inform their family, legal adviser, consular representatives and other persons or competent organizations about their imprisonment. Worrying is the fact that the Institution does not help foreign prisoners in their attempt to contact a consular representative and does not allow their visit to the prisoners. Foreign prisoners originating from the countries from the “refugee crisis” face an additional problem because there are no consular offices of their countries in the Republic of Macedonia, so they are forced to seek contact in other countries. |
| Foreign prisoners are not familiar with the possibility of filing a transfer request in order to serve their sentence in their own country. The transfer process takes too long. |
| The institution does not provide adequate legal assistance to foreign prisoners in the protection of their rights by using legal means due to lack of properly trained personnel. |

## SUGGESTIONS

<p>| Foreign prisoners after their receipt, should be allowed to inform their families, legal advisors, diplomatic and consular representatives of the state whose citizens they are, either the diplomatic representative of the state that takes care of their interests or the domestic or international authority whose task is to serve the interests of such persons, as well as to communicate with the consular representative of their states or the state that protects her interests. |
| Foreign prisoners immediately after admission in institution, in the language they language they understand, orally or in writing, should be informed about the possibilities of transfer in their own country in order to serve the sentence in the most humane way. |
| Provide timely information and legal assistance regarding the use of legal remedies and take actions to protect their rights by a sufficient number of appropriately trained personnel. |</p>
<table>
<thead>
<tr>
<th><strong>CONCLUSION</strong></th>
<th><strong>SUGGESTIONS</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Failure to respect the right to enable contact with the outside world, also, non-functional telephone booths, prisoners very rarely have visits from consular representatives, prisoners from the states covered with the “refugee crisis” do not have any visits.</td>
<td>To facilitate contact with the outside world (correspondence, telephoning, visits, receiving shipments), as well as to provide certain assistance to foreign prisoners who do not have financial means, in order to enable them to communicate with the outside world. Urgent solution to the problem with the telephone booths and provision of calling cards is necessary.</td>
</tr>
<tr>
<td>For foreign prisoners originating from the states of the “refugee crisis”, the institution does not provide adequate assistance in exercising the right to asylum.</td>
<td>Foreign prisoners originating from the states of the “refugee crisis” should be helped to communicate with the competent authorities</td>
</tr>
<tr>
<td>No educational work is conducted with foreign prisoners, because there is only one educator in charge of this category of detainees who can not provide regular meetings and conduct individual nor group method of work with the foreign prisoners.</td>
<td>Increase in the number of educators who will carry out regular contacts with foreign prisoners. The educators who will be selected need to meet certain criteria and skills for interaction as well as language skills, they should be properly trained, taking into account the specific situation of these individuals.</td>
</tr>
<tr>
<td>No foreign prisoner is engaged in any kind of, nor is he involved in the process of education and vocational training. In addition, there are no organized free activities in the institution.</td>
<td>To provide the prisoners with appropriate work engagement, education and vocational education, sport and recreation, given the fact that they are crucial for the successful re-socialization of the convicted persons.</td>
</tr>
<tr>
<td>In the institution the access to adequate health care is quite difficult, that is, it is extremely tough to exercise the right to be examined by a doctor, except in exceptional urgent situations.</td>
<td>Access to adequate health care cannot be postponed, Also, adequate material conditions need to be provided as well as a sufficient number of staff available for providing health care.</td>
</tr>
</tbody>
</table>
## CONCLUSION

<table>
<thead>
<tr>
<th>There is a practice of non-examining the foreign prisoners by a doctor within 24 hours after the reception in the Institution.</th>
<th>Obligatory doctor checkup must be included for the foreign prisoners within 24 hours after admission.</th>
</tr>
</thead>
<tbody>
<tr>
<td>The majority of foreign prisoners are classified in a closed class, treatment group B1 and B2 and they do not progress, hence, they do not use any benefits. Prisoners are granted the first category of convenience, conveniences consisting of mitigation certain conditions in the institution. However, certain conveniences are not practiced as with the frequent contacts with the outside world. These are not allowed for fear that the prisoners may escape, and because they do not have a place of residence, nor relatives on the territory of Republic of Macedonia.</td>
<td>To apply the same rules and criteria for progressing and using benefits as for other prisoners, otherwise we face a situation of discrimination against them in relation to these issues.</td>
</tr>
<tr>
<td>Conditions for execution of the prison sentence in PI Idrizovo regarding accommodation, hygiene in the institution and personal hygiene, diet, etc. are below the prescribed minimum standards.</td>
<td>To improve the conditions for serving the prison sentence in the institution, which will meet the minimum standards for execution of the imprisonment sentence.</td>
</tr>
<tr>
<td>Foreign prisoners are not informed about the possibility of conditional release, as well as possibilities for early dismissal from the institution.</td>
<td>Foreign prisoners, as well as other prisoners, should be provided with early dismissal as soon as they meet conditions and must not be discriminated against in this regard.</td>
</tr>
<tr>
<td>CONCLUSION</td>
<td>SUGGESTIONS</td>
</tr>
<tr>
<td>---------------------------------------------------------------------------</td>
<td>-----------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Two thirds of foreign prisoners, especially foreign prisoners originating from refugee countries, do not have any documents.</td>
<td>They need urgent help so that they can provide appropriate travel documents and assistance in travelling. Also they need to be assisted in providing contacts with consular agents to assist them in releasing them from jail.</td>
</tr>
</tbody>
</table>
USED LITERATURE


Council of Europe, Committee of Ministers, Recommendation CM/Rec(2012)12 of the Committee of Ministers to member States concerning foreign prisoners (Adopted by the Committee of Ministers on 10 October 2012 at the 1152nd meeting of the Ministers’ Deputies).

Council of Europe, Committee of Ministers, Recommendation Rec (2006)2 of the Committee of Ministers to member states on the European Prison Rules1 (Adopted by the Committee of Ministers on 11 January 2006 at the 952nd meeting of the Ministers’ Deputies).


European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) http://www.cpt.coe.int/en/.


Directive 2011/95 / EU of the European Parliament and of the Council of 13 December 2011 on standards to be fulfilled by persons who are nationals of third countries or stateless persons in order to qualify as beneficiaries of international protection for equal status for refugees or for persons with subsidiary protection rights and the content of the protection provided.


Council Directive 2001/55 of the European Parliament and of the Council of 20 July 2001 on minimum standards for the provision of temporary protection in the event of a mass influx of displaced persons unable to return to their country and establishing a balance between the activities of the Member States when receiving the displaced persons, as well as when submitting the consequences of such activities.


Law on Free Legal Aid (“Official Gazette of the Republic of Macedonia” No.161 / 09, 185/11, 27/14 and 104/15).


Law on Asylum and Temporary Protection (“Official Gazette of the Republic of Macedonia” No. 49/03, 66/07, 142/08, 146/09, 166/12, 101/15, 152/15, 55/16 and 71 / 16).


House Rules for convicts serving prison sentences at penitentiary institutions, January 2012, Ministry of Justice.

Ombudsman (March, 2018) Annual report on the level of ensuring respect, promotion and protection of human rights and freedoms.


Recommendation no. (84) 12 concerning foreign prisoners (Rec. R (84) 12 concerning foreign prisoners)


Framework decision 2008/909 / JHA (Framework decision 2008/909 / JHA).

Decision on the deployment of convicted, punished and juvenile persons in the penitentiary and correctional institutions (“Official Gazette of the Republic of Macedonia” No. 84/2008).


http://www.ohchr.org/en/ProfessionalInterest/Pages/OPCAT.aspx


http://www.pravda.gov.mk/UIS/ZAKONI/Kuken_red_zu_osudeni_lica_koi_izdrzu-
vaat_kazna_zatvor.pdf.


https://iomskopje.org/%D0%B7%D0%B0-%D0%BD%D0%B0%D1%81/%D0%B8-%D0%BE%D0%BC-%D1%81%D0%BA%D0%BE%D0%BF%D1%98%D0%B5/. Access: 8.12.2018.


https://www.coe.int/en/web/cpt/-the-former-yugoslav-republic-of-macedo-


Annex: QUESTIONAIRRE

Institution:
PI IDRIZOVO

**GENERAL DATA**

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Date of visit:</td>
</tr>
<tr>
<td>2.</td>
<td>Interviewer:</td>
</tr>
<tr>
<td>3.</td>
<td>Interviewee:</td>
</tr>
<tr>
<td>4.</td>
<td>Gender: Male 1 Female 2</td>
</tr>
<tr>
<td>5.</td>
<td>Date of birth:</td>
</tr>
<tr>
<td>6.</td>
<td>Place of birth:</td>
</tr>
<tr>
<td>7.</td>
<td>Nationality:</td>
</tr>
<tr>
<td>8.</td>
<td>Citizenship:</td>
</tr>
<tr>
<td>9.</td>
<td>Place of living (before imprisoned in PI Idrizovo):</td>
</tr>
<tr>
<td>10.</td>
<td>Place of staying (before imprisoned in PI Idrizovo):</td>
</tr>
<tr>
<td>11.</td>
<td>Education degree:</td>
</tr>
<tr>
<td>12.</td>
<td>Marital status:</td>
</tr>
<tr>
<td></td>
<td>Not married 1 Married 2 Divorced 3</td>
</tr>
<tr>
<td></td>
<td>Widow-er 4 Other 5</td>
</tr>
<tr>
<td>13.</td>
<td>Occupation:</td>
</tr>
<tr>
<td>14.</td>
<td>Criminal history:</td>
</tr>
<tr>
<td></td>
<td>First offender 1 Recidivist 2 Multiple recidivists 3</td>
</tr>
<tr>
<td>15.</td>
<td>Crime act for which he/she is imprisoned:</td>
</tr>
<tr>
<td>16.</td>
<td>Health state:</td>
</tr>
</tbody>
</table>
**PRISONERS’ STATUS**

<table>
<thead>
<tr>
<th>17.</th>
<th><strong>Addiction?</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Yes 1 No 2 No respond 3</td>
</tr>
<tr>
<td></td>
<td>If Yes, what kind of addiction and if treatment is provided?</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>18.</th>
<th><strong>Classification</strong> (specify the unit and the treatment group)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Is reclassification made while prisoners were serving the sentence?</td>
</tr>
<tr>
<td></td>
<td>Yes 1 No 2 No respond 3</td>
</tr>
<tr>
<td></td>
<td>If yes, which unit and treatment group?</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>19.</th>
<th><strong>Accommodation</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>On a scale from 1 to 5 how do you assess the accommodating conditions?</td>
</tr>
<tr>
<td></td>
<td>(1-extremely bad, 2-bad, 3-good, 4-very good, 5-excellent)</td>
</tr>
<tr>
<td></td>
<td>1 2 3 4 5</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>20.</th>
<th><strong>Clothes and bedding</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Does the institution provide clothes and bedding or the prisoners use their own?</td>
</tr>
<tr>
<td></td>
<td>Yes 1 No 2 Use own 3 No respond 4</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>21.</th>
<th><strong>Personal hygiene</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Does the institution provide condition for maintenance of personal hygiene?</td>
</tr>
<tr>
<td></td>
<td>Yes 1 No 2 Use own hygienic assets 3 Rejects maintaining personal hygiene 4 No respond 5</td>
</tr>
<tr>
<td></td>
<td>On a scale from 1 to 5 how do you assess the hygiene in the institution?</td>
</tr>
<tr>
<td></td>
<td>(1-extremely bad, 2-bad, 3-good, 4-very good, 5-excellent)</td>
</tr>
<tr>
<td></td>
<td>1 2 3 4 5</td>
</tr>
<tr>
<td></td>
<td><strong>Food</strong></td>
</tr>
<tr>
<td>---</td>
<td>-------------------------------------------------------------------------</td>
</tr>
<tr>
<td></td>
<td>Does the food meet the minimum standards?</td>
</tr>
<tr>
<td></td>
<td>Yes  1  No  2  No respond  3</td>
</tr>
<tr>
<td></td>
<td>Are you provided with food that meets your religious needs?</td>
</tr>
<tr>
<td></td>
<td>Yes  1  No  2  No respond  3</td>
</tr>
<tr>
<td></td>
<td>Notifications</td>
</tr>
<tr>
<td></td>
<td><strong>Rest</strong></td>
</tr>
<tr>
<td></td>
<td>Do you stay out on fresh air at least two hours during the day?</td>
</tr>
<tr>
<td></td>
<td>Yes  1  No  2  No respond  3</td>
</tr>
<tr>
<td></td>
<td>Notifications</td>
</tr>
<tr>
<td></td>
<td><strong>Work Engagement</strong></td>
</tr>
<tr>
<td></td>
<td>Are you engaged in work?</td>
</tr>
<tr>
<td></td>
<td>Yes  1  No  2  No respond  3</td>
</tr>
<tr>
<td></td>
<td>If yes, what do you work and how much you are paid for that?</td>
</tr>
<tr>
<td></td>
<td>Notifications</td>
</tr>
<tr>
<td></td>
<td><strong>Health care</strong></td>
</tr>
<tr>
<td></td>
<td>Are you provided with adequate health care/access to a doctor?</td>
</tr>
<tr>
<td></td>
<td>Yes  1  No  2  No respond  3</td>
</tr>
<tr>
<td></td>
<td>Has a doctor checked your health within 24 hours after your reception in</td>
</tr>
<tr>
<td></td>
<td>the institution?</td>
</tr>
<tr>
<td></td>
<td>Yes  1  No  2  No respond  3</td>
</tr>
<tr>
<td></td>
<td>On a scale from 1 to 5 how do you assess the health care in the institution?</td>
</tr>
<tr>
<td></td>
<td>(1-extremely bad, 2-bad, 3-good, 4-very good, 5-excellent)</td>
</tr>
<tr>
<td></td>
<td>1  2  3  4  5</td>
</tr>
<tr>
<td></td>
<td>Notifications</td>
</tr>
<tr>
<td></td>
<td>If the prisoners is a woman are the particular need for a woman respected,</td>
</tr>
<tr>
<td></td>
<td>pregnant women...?</td>
</tr>
<tr>
<td></td>
<td>Yes  1  No  2  No respond  3</td>
</tr>
<tr>
<td></td>
<td>Notifications</td>
</tr>
<tr>
<td></td>
<td><strong>Education and vocational qualifications</strong></td>
</tr>
<tr>
<td></td>
<td>Are you involved in some educational process or do you attend any appro-</td>
</tr>
<tr>
<td></td>
<td>priate training course?</td>
</tr>
<tr>
<td></td>
<td>Yes  1  No  2  No respond  3</td>
</tr>
<tr>
<td></td>
<td>If Yes, please specify</td>
</tr>
<tr>
<td></td>
<td>Notifications</td>
</tr>
</tbody>
</table>
27. **Leisure activities, sport and recreation**
   How do you spend your free time?
   On a scale from 1 to 5 how do you assess the organization of free activities, sports and recreation in the Institution?
   (1-extremely bad, 2-bad, 3-good, 4-very good, 5-excellent)
   1 2 3 4 5
   Notifications
   Do you use the library and do you have books in the language that you understand?
   Yes 1 No 2 No respond 3
   Notifications

28. **Educational-correctional work**
   Do the prison staff perform educational-correctional work with you?
   Yes 1 No 2 No respond 3
   Notifications

29. **Satisfying religious needs**
   Are you allowed to satisfy your religious needs?
   Yes 1 No 2 No respond 3
   Notifications

30. **Contact with the outside world**
   Do you have a contact with the outside world??
   Yes 1 No 2 No respond 3
   Notifications
   Is correspondence allowed?
   Yes 1 No 2 No respond 3
   Notifications
   Is telephoning allowed?
   Yes 1 No 2 No respond 3
   Notifications
   Are visits allowed?
   Yes 1 No 2 No respond 3
   Notifications
   Are you allowed to accept shipments?
   Yes 1 No 2 No respond 3
   Notifications
### 31. **Marriage**
Have you got married while serving a prison sentence?
- Yes 1
- No 2
- No respond 3

### 32. **Conveniences**
(arranging the living space with personal belongings, more frequent receipt of parcels and receiving heavy weight shipments, extended visits or visits without supervision in the premises of the institution, unannounced telephone calls, stay with a spouse or extramarital partner in a separate room without supervision, visits outside premises of the institution, free exit from the institution up to 7 hours, absence for up to 15 days during the year, the absence during the month can not be longer than three days and complete or partial use of the holiday outside the institution)

Have you been given any conveniences?
- Yes 1
- No 2
- No respond 3

If Yes, how often?

### 33. **Reallocation**
Have you progressed?
- Yes 1
- No 2
- No respond 3

If Yes, which unit and treatment group?

Have you re-progressed?
- Yes 1
- No 2
- No respond 3

If Yes, which unit and treatment group and specify the reason?

On a scale from 1 to 5 how do you assess the progressing procedure?
(1-extremely bad, 2-bad, 3-good, 4-very good, 5-excellent)
- 1 2 3 4 5

### 34. **Termination of serving a sentence**
Have you submitted a request for termination of the sentence?
- Yes 1
- No 2
- No respond 3

If Yes, specify the reason?

Notifications
### 35. Relation with the personnel
Did the following means of force (singling out, tying, rubber sticks, water sprays, chemicals and dogs) were applied to you?
- Yes 1
- No 2
- No respond 3

If Yes, which force and specify the reason?

Notifications

On a scale from 1 to 5 how do you rate the attitude of the officials towards you? (1-extremely bad, 2-bad, 3-good, 4-very good, 5-excellent)
- 1
- 2
- 3
- 4
- 5

Have you been a victim of torture by an official?
- Yes 1
- No 2
- No respond 3

If yes, please provide details?

Notifications

### 36. Escape
Have you tried to escape?
- Yes 1
- No 2
- No respond 3

If Yes, please provide details?

Notifications

### 37. Discharge from an Institution
Have you applied for a pardon?
- Yes 1
- No 2
- No respond 3

If Yes, provide details?

Notifications

Have you submitted a request for conditional release?
- Yes 1
- No 2
- No respond 3

If Yes, please provide details?

Notifications

Have you been informed that the director of the institution can dismiss the convicted person even before the expiry of the sentence if he spent at least three quarters of the prison sentence and if he did not receive conditional release up to 30 days for a prison sentence of up to one year, 90 days for a penalty imprisonment of five years and up to 120 days in prison for more than five years?
- Yes 1
- No 2
- No respond 3

Notifications
| 38. | **Protection of the rights by using legal remedies** |
|     | Does the Institution give you information and legal assistance in a language that you understand regarding the protection of your rights? |
|     | **Yes** 1 **No** 2 **No respond** 3 |
|     | **Notifications** |
|     | Are you familiar with the procedure of submitting applications and appeals? |
|     | **Yes** 1 **No** 2 **No respond** 3 |
|     | **Notifications** |
|     | Are you instructed/advised in a language that you understand? |
|     | **Yes** 1 **No** 2 **No respond** 3 |
|     | **Notifications** |
|     | Does the institution provide a translator/ an interpreter? |
|     | **Yes** 1 **No** 2 **No respond** 3 |
|     | **Notifications** |
|     | Have you lodged a complaint to the Director of the Institution? |
|     | **Yes** 1 **No** 2 **No respond** 3 |
|     | **Notifications** |
|     | Have you lodged a complaint to the Director of DES? |
|     | **Yes** 1 **No** 2 **No respond** 3 |
|     | **Notifications** |
|     | Have you submitted an application to the European Committee for the prevention of torture and inhuman treatment and to the United Nations High Commissioner for Human Rights? |
|     | **Yes** 1 **No** 2 **No respond** 3 |

| 39. | **Disciplinary and material accountability** |
|     | Have you been disciplinary sanctioned? |
|     | **Yes** 1 **No** 2 **No respond** 3 |
|     | If Yes, how many times, what kind of injury and which disciplinary measure was passed? |
|     | **Notifications** |
### Asylum

<table>
<thead>
<tr>
<th>Question</th>
<th>Yes</th>
<th>No</th>
<th>No respond</th>
<th>Notification</th>
</tr>
</thead>
<tbody>
<tr>
<td>41.1 Do you have a status of a recognised refugee?</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>41.2 Are you a person under subsidiary protection?</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>41.3 Are you a recognised refugee and a person under subsidiary protection sur place?</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>41.4 Are you familiar with the asylum procedure?</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>41.5 Have you submitted an application for asylum in the Republic of Macedonia?</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>41.6 Have you previously submitted a request for recognition of the right to asylum in another country?</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>41.7 After the serving the imprisonment sentence is your intention to stay in R. Macedonia and seek asylum?</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>41.8 Do you have appropriate documentation?</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>41.9 If Not, has the Institution offered help in providing the appropriate documentation?</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>41.10 Do you know what are the rights and duties to asylum seekers?</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
41.11 Are you familiar with the third-country safety institute, a member state of the European Union, a member state of the North Atlantic Treaty Organization (NATO) or a member state of the European Free Trade Association (EFTA), and the possibility of using legal remedies?

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
<th>No respond</th>
<th>3</th>
</tr>
</thead>
</table>

Notifications

41.12 Have you been visited by the consular representative of your state or the state that protects your interests?

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
<th>No respond</th>
<th>3</th>
</tr>
</thead>
</table>

Notifications

41.13 Have you been contacted and have you been able to communicate with your country’s diplomatic or consular representative?

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
<th>No respond</th>
<th>3</th>
</tr>
</thead>
</table>

Notifications

41.14 Are you aware of the possibility to be transferred to serve the imprisonment in another country?

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
<th>No respond</th>
<th>3</th>
</tr>
</thead>
</table>

Notifications

41.15 After your reception in prison did the prison staff help you inform your family about your imprisonment, or some legal advisor, consular agents or other persons or organisations competent to help you?

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
<th>No respond</th>
<th>3</th>
</tr>
</thead>
</table>

Notifications