What is torture?

According to the UN Convention against torture and other cruel, inhuman and degrading treatment or punishment from 1984, there are three basic elements that define torture:

- Causing severe physical or mental pain or suffering.

- Existence of a specific purpose such as obtaining confession or information or punishing for an act or a third person has committed.

- Committed by a public official or other person acting in an official capacity.

Our legislation defines torture as severe criminal act punishable by article 142 of the Criminal Code of the Republic of Macedonia. This criminal act is defined as Torture or other cruel, inhuman or degrading treatment or punishment and reads as follows:

“A person who while performing his duty, as well as a person instructed by an official person or based on consent of the official person, shall apply force, threat or some other illicit instrument or in illicit manner with the intention to force a confession or some other statement from a defendant, a witness, an expert witness or from some other person, or will inflict on another person severe bodily or mental suffering in order to punish the other person for a crime which the other person has committed or for which the other person or some other person is under suspicion, or to intimidate him/her or to force him/her to forfeit some of his/her rights, or shall cause such suffering due to any kind of discrimination, will be punished with 3 to 8 years of imprisonment.”

What are the places that the NPM can visit?

- police stations
- penitentiary and correctional facilities
- psychiatric hospitals and institutions
- other places where persons are deprived of their liberty as well as any other unofficial places for which the Ombudsman has information that persons are deprived of their liberty.

What are the NPM competencies?

a) To regularly investigate the treatment of the persons deprived of their liberty in order to prevent torture and other cruel, inhuman and degrading treatment of punishment;

b) To give recommendations to the relevant state bodies in order to prevent torture and other cruel, inhuman and degrading treatment towards persons who are deprived of their liberty as well as to improve their treatment and the conditions of their accommodation, taking into consideration the relevant norms of the United Nations;

c) To initiate proposals for amending or provide opinions regarding the existing or the draft legislation.

How the NPM acts and what are its authorizations?

- Conducts regular (announced or unannounced) visits to the places where persons are deprived of their liberty
- Has full access to all documents and information in relation to the persons who are deprived of their liberty
- Has full access to all places where persons are deprived of their liberty
- Conducts private interviews with persons who are deprived of their liberty without witnesses, personally or with an interpreter, as well as with any other person that can provide information relevant for the prevention of torture
- Has full freedom to decide on the places to visit or persons to talk to.

Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment

Adopted by the General Assembly of the United Nations in 2002

The objective of the present Protocol is to establish a system of regular visits undertaken by independent international and national bodies to places where people are deprived of their liberty, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment (Art. 1).

Each State Party shall maintain, designate or establish, at the latest one year after the entry into force of the present Protocol or of its ratification or accession, one or several independent national preventive mechanisms for the prevention of torture at the domestic level.

Mechanisms established by decentralized units may be designated as national preventive mechanisms for the purposes of the present Protocol if they are in conformity with its provisions (Art. 17).