



Република Македонија  
**НАРОДЕН ПРАВОБРАНИТЕЛ**  
**O M B U D S M A N**  
Republic of Macedonia

**INFORMATION ABOUT THE RESPECT AND PROTECTION  
OF THE RIGHTS OF CONVICTED AND DETAINED PERSONS**

Skopje, September 2009

## INTRODUCTION

In function to the realization of the work program for 2009 the Ombudsman visited the penitentiary-correctional institutions in June and July in order to establish the conditions of fulfillment and respect of the rights of convicted persons. The visits made by the Ombudsman are established with the provision of article 31 of the Law on the Ombudsman (Official Gazette of the Republic of Macedonia No. 60/03), according to which, the Ombudsman shall follow the situation regarding the respect and protection of the constitutional and legal rights of individuals in organs, organizations and institutions in which the freedom of movement is limited and especially that of: detained persons, persons in custody and persons serving a prison sentence or educational-correctional measure in the penitentiary-correctional and educational-correctional institutions.

### **Basic information about the penitentiary-correctional institutions**

The Penitentiary system in the Republic of Macedonia is set in a certain horizontal and vertical correlation with the functioning of: closed, semi-open and open penitentiary-correctional institutions, with the possibility for transfer of inmates from one institution to another. According to the decision to allocate the inmates ("Official Gazette of RM" 113/08) made by the Minister of Justice, prison sentence is carried out in two penitentiary-correctional institutions of the closed type: PCI Idrizovo and PCI Stip, seven semi-open penitentiary-correctional institutions in: Bitola, Pripel, Gevgelija, Skopje, Tetovo, Strumica and Kumanovo and one penitentiary-correctional institution of the open type- PCI Struga. In the semi-open penitentiary-correction institutions, detention is effectuated, issued by the competent court, and the sentence to juvenile prison is served in the Ohrid prison.

The total capacity of the penitentiary-correction institutions is 1,812 for inmates and 279 for detainees. In these institutions there is a total sum of 728 employees out of which according to the ethnic representation 625 are

Macedonians, 84 Albanians, 5 Serbs, 10 Vlachos, 2 Romas, 1 Bosniac and 1 member of other nationalities. According to the gender representation 616 are male and 112 are female.

### **Conditions ascertained on the basis of the conducted visits**

According to a previously established methodology during the visits, the inmates' accommodation conditions were assessed and the inmates' documentation was inspected, and at the same time by conversing with the employees and the inmates the attitude and treatment of the authorities towards the persons deprived of freedom was also supervised. The following conditions were ascertained:

### **Accommodation conditions and capacity**

The state of the accommodation conditions of inmates in some penitentiary-correctional institutions is alarming. It has been established that the accommodation conditions have been considerably improved in PCI Stip and in the prisons in: Bitola, Gevgelija and Prilep.

But this is not the case with PCI Idrizovo and in the Prison in Tetovo. It is obvious that funds for these institutions are not provided for the improvement of the conditions for the stay of inmates, that is there is no real implementation of the provisions of articles: 102 and 103 of the Law for implementation of sanctions, according to which the accommodation premises shall satisfy basic hygienic conditions, it shall be properly equipped, shall have adequate ventilation and natural light, and a room of 9 m<sup>3</sup> shall be provided to every inmate.

In terms of accommodation facilities which, according to the information of the Board for execution of sanctions, have 1812 beds for convicted persons and 279 for detainees, it is an indisputable conclusion that in some penitentiary-correctional institutions there is still the issue of overcrowding.

For example in PCI Idrizovo over 30% of inmates are permanent residents in terms of the existing capacity.

Namely, the institution has a capacity of 950 beds, but in this house permanent residents are more than 1,300 inmates. On the other hand, unlike in earlier times, the situation in the department for detention in the Skopje Prison has significantly improved, having in prospect that towards the end of June the new detention ward was put to use with which it is expected the issue with crowdedness

in this institution to be resolved. Also, it is an undisputed conclusion that it is necessary to improve the lighting and heating of the premises and to regularly renovate the inventory.

### **Status and Training of Personnel**

The situation with the personnel in the penitentiaries has improved compared to previous years. Prison staff has been employed during 2008, primarily in the security service and in the health sector in some institutions. This trend should continue because the lack of personnel in the institutions creates an atmosphere of uncertainty among current employees and at the same time it represents an obstacle to successful implementation of the treatment as a fundamental part of the process of re-socialization of the inmates. In this context it is necessary to emphasize that there is an insufficient number of female employees, and there is inadequate representation of the communities that are not the majority in Macedonia.

On the other hand it is necessary that measures for establishing an organized educational system are taken by creating a training center in accordance with the provision from Article 67 of the Law on Execution of Sanctions.

Namely, although over the past years a number of seminars, workshops and other training programs for employees in penitentiary institutions have been implemented, the fact remains that the continued education and training is an essential prerequisite for professionalism and professional upgrading for timely, lawful and accountable execution of tasks.

### **HYGIENE AND NUTRITION OF INMATES**

It has been concluded that in most penitentiary-correctional institutions inmates serve their sentence in inadequate hygienic conditions. While for PCI Stip it can be concluded that the hygiene is at a high level, the same cannot be said for PCI Idrizovo. In this penitentiary-correctional institution of particular concern is the hygiene in the closed and semi-open ward.

Namely, regular maintenance of hygiene represents a necessary condition to preserve the health of inmates.

The quantity and quality of food given to inmates is insufficient and inadequate to the prescribed standards, although this state is also due to the limited budget. The main courses are usually prepared from three edibles: beans, potatoes

and macaroni, and there is a lack of necessary food utensils and dining equipment (chairs and tables). It is evident that in terms of nutrition it is not acted upon the legislation with which the norm for at least 12 500 calories per inmate is established. It also lacks diversity in the diet, as well as preparation of special type of food for special categories of inmates, such as pregnant women, younger prisoners, vegetarians and others.

Namely, the conclusion remains that in the prison institutions there is lack of care for the procurement of food as well as for its serving and consuming, whereby the health standards are not applied for the sick inmates.

### **Communication with the outside world**

Communication of inmates with the outside world (phone calls, receiving and sending letters and other) is at a satisfactory level, but there is a limit determined by the house rules according to which the inmates can use this privilege only in the afternoon. Contacts of inmates with the outside world are of fundamental importance for the purposes of the treatment. Contacts of inmates with the outside world should be a part of the daily work routine of the prison administration and a main characteristic of the entire information and communications system of each penitentiary institution.

A particular recent problem is the problem with the use of the privilege—weekend leave for certain groups of inmates residing in the penitentiary- correctional institutions.

Namely this privilege is not enjoyed by the inmates that before the enforcement of the verdict are directed towards serving the sentence and inmates against whom criminal proceedings are held for other crimes. Putting aside the justification for the restrictions for this privilege, it has been concluded that the house rules of the institutions with which the weekend leave is put in function, does not conform to reality.

Namely, for such categories it is necessary that provisions establishing why a particular category of inmates cannot use the privilege- a weekend leave, are made clear and precise.

## **Recreation and sports activities**

It is an undisputable conclusion that the inmates do not have enough opportunities for recreational activities. Organization of appropriate physical education, sports and other activities is important for the physical and mental health.

Namely, sports and entertainment activities are reduced to a minimum because of an insufficient number of sports equipment and technical devices, but there is also indolence from the part of the officials to organize appropriate activities. In this direction, it is worth mentioning the positive example of PCI Stip where appropriate sports fields are built for recreational and sporting activities of inmates.

## **WORK ENGAGEMENT OF INMATES**

It has been established that in some penitentiary-correctional institutions the inmates are not provided with a work engagement. There are situations (Bitola Prison, PCI Idrizovo, Tetovo Prison), where a greater number of inmates are not engaged in work activities. On the other hand, the work engaged prisoners are not paid a regular fee, neither are they provided with products for personal hygiene. It can be concluded with certainty that in all penitentiary-correctional institutions the inmates are not equally work engaged and there are deviations from the legal provisions concerning the right to work. This situation does not create an opportunity for improvement of the process of re-socialization by preparing the inmate for work in the outside world so that the inmate preserves his ability to work and acquires working habits.

The state of economic units that are established for the work engagement inmates also contribute for the existing situation with the work engagement of inmates which is a necessary precondition for the success of the treatment.

Namely, there is an impression as if time has stopped in some power facilities intended for work engagement of inmates (PCI Idrizovo) because the equipment and working conditions are below human dignity, and simultaneously deviate from the minimal working standards. The fact that inmates are engaged strictly in work in agriculture, indicates the necessity for taking action to reorganize the economic operation, purchasing new equipment, opening new facilities, or in short, modernization and improvement of the working process of inmates.

## **Health Care for inmates**

In penitentiary-correctional institutions, the situation with the personnel in the past period has been significantly improved with the employment of medical personnel. But in some penitentiary-correctional institutions( Gevgelija Prison, Ohrid prison, Strumica prison and PCI Struga) there is no permanently employed medical personnel, so the health care is organized by closing deals with medical centers or private health institutions.

In terms of the health care, the situation with inmates addicted to narcotics is especially worrying, a situation present in every penitentiary- correctional institution. Particularly worrying is the situation with inmates addicted to narcotics in PCI Idrizovo and inmates sentenced to juvenile prison (Ohrid Prison) that suffer from hepatitis B or C. The drug addicts are inmates under the age of 30. It is important to emphasize that in these institutions there is cooperation with the health centers providing methadone therapy and in PCI Idrizovo there is a functional methadone center.

During the visits to the penitentiary- correctional institutions once again, as in previous reports, it has been concluded that the inmates do not have health insurance although it is determined by the health legislations. So, as before, the health care needs (physical exams outside the institution, procurement of medical supplies and drugs) are being financed from a special paragraph of the Board for Execution of Sanctions, but the lack of budgetary funds is also present in relation to this matter, as well as the perpetual shortage of medicine and medical equipment.

## **EDUCATION AND PROFESSIONAL IMPROVEMENT**

In the penitentiary-correctional institutions, organization and realization of an educational program, professional training and advancement of inmates is absent, although some forms of primary education is present in PCI Idrizovo. A particular problem is the great number of persons sentenced to juvenile prison who are illiterate. Concerning this issue it is important to be noted that in PCI Idrizovo actions are being taken to renovate the school premises used to hold classes for inmates. Thereby a conclusion has been made that as in free society the primary and secondary education is compulsory for inmates, but the absence of cooperation with the competent authorities in the area of education is noticeable.

### **Non-functioning of Pre-release Treatment**

In penitentiary-correctional institutions in the Republic of Macedonia there is no pre-release treatment of inmates as a way to prepare their release from the institution, although it is required according to legal provisions. In this context it has been concluded that there is also a lack of cooperation with the Social Work Center concerning the place where the convicted person will live or reside after serving the sentence.

Namely, in modern prison systems it is common practice to form special release programs. It is especially important that the inmates are being informed about life on the outside in order to be prepared for future life and work. But in penitentiary-correctional institutions in the state the pre-release treatment does not function nor is the program for release being prepared although as an important segment of the process of re-socialization it should be prepared even at the beginning of the sentence serving, according to the individual program for treatment.

### **Right to legal protection**

Inmates are required to respect order and discipline while serving the sentence, but at the same time authorities are obligated by Law to secure the right to submit complaints and appeals. This standard is normatively established in the Law on Execution of Sanctions, but is not fully implemented because it is an undisputed conclusion that the legal protection of the inmates is provided only by the Ombudsman, according to his jurisdiction.

Namely, with the provisions of Articles 166 to 173 of the Law on Execution of Sanctions, the protection of the rights of the inmates is regulated by the use of legal means, but during the visits to the institutions from conversations with prisoners and from the inspection of professional records it has been established that no written or oral complaints submitted by inmates have been recorded, neither are there records that the complaints were acted upon, neither has an answer been given, whereas there are reports that inmates were not enabled to file a complaint that is to submit a complaint to another institution.

### **RECOMMENDATIONS FOR IMPROVEMENT OF THE SITUATION**

The established conclusions about the operation of penitentiary-correctional and educational-correctional institutions in the Republic of Macedonia and the necessity for their further improvement determine the recommendations about which

the Ombudsman believes that in the next period it is necessary the following urgent and necessary measures and activities to be taken:

1. Full implementation of the legislation for the operation of penitentiary-correctional institutions and educational-correctional institutions, with obligatory respect for the rights of convicted and detained persons. In this context it is necessary that an amending to the existing legislation is made in order to strengthen the provisions for the functioning of the penitentiary system and the smooth realization of the guaranteed rights of convicted persons.

2. Improvement of the premises for accommodation of inmates and realization of the commenced investment activities of the Board for Execution of Sanctions with consistent application of standards that ensure humane and decent living and working conditions for this category of people deprived of their liberty. Thereby, it is necessary that the norms for accommodation during the construction or reconstruction of the facilities are specified, according to health and hygiene needs as well as weather conditions.

In this context it is advisable that the investing activities are obligated to contain clear and precise constructional and crafting activities with precisely established dynamics and source of funding for every penitentiary-correctional institution separately.

3. The staffing of the services with personnel in the penitentiary-correctional and educational-correctional institutions, as a process should continue with the consistent implementation of the principle of proper equitable representation of communities, especially by employment of female persons. It is also recommended that it is obligatory that an educational system and training of personnel employed in the correctional institutions is established, especially in terms of knowledge and application of domestic legislation and international standards in the area of enforcement of sanctions.

4. An obligatory regular maintenance of hygiene in the premises where inmates reside and work and provision of a varied diet with greater representation of fruits and vegetables. Inmates who are responsible for preparing the food to undergo regular medical examinations.

5. Establishing an organized form of health care for inmates by employing doctors and other medical personnel in the institutions that lack such cadre and a regular supply of medical equipment and medicaments.

Namely the preservation of physical and mental health of persons serving a prison sentence, is an obligation which arises from the Law on Execution of Sanctions and International Standards. For this purpose the need for an obligatory insurance for inmates is imperative.

In order to establish a proper health care, cooperation with the Ministry of Health is needed as a competent authority which supervises the quality of provided medical service. The problem with inmates addicted to narcotics requires developing special programs for the treatment of addicts, and establishing a system of prevention, compatible with the system in the community, so it is recommended that the realization of programs is in accordance with the National Strategy for treatment of persons addicted to narcotic drugs and psychotropic substances.

6. Contacts made by inmates with their families and the need for receiving information from the outside world are an important factor for the achievement of the objectives of re-socialization as a basic precondition to reduce the effects of institutionalization and separation from society. Therefore it is necessary to stimulate visits to inmates, only longer in duration, and to provide undisturbed receipt of letters and packages. At the same time it is necessary to stimulate the privilege of taking leave from penitentiary-correctional institutions by using a weekend - stay in the family circle. In this context it is required a legal norm to be established about the grounds under which this convenience can be used.

7. It is obligatory and necessary that an educational process in penitentiaries is organized. Education must be organized and implemented as a systemic activity whereby great care should be taken over the educational process of young inmates. In this direction it is necessary cooperation with relevant institutions in the field of education to be established.

8. Modernization of the work of economic units that operate within the penitentiary-correctional and educational-correctional institutions and creating conditions for work engagement of inmates. Moreover, in the process of work engagement it is necessary that a clear status and priority of the work of inmates to be established, adequate means for realization of the work program to be provided, use of modern techniques and processes of production as well as compensation for the work performed to be provided.

9. Uninterrupted functioning of the system, application of the instruments for the protection of the rights of convicted persons by the penitentiary-correctional

institutions and regular recording of all events and circumstances relevant to the legal assistance to inmates.