



Montenegro

**PROTECTOR OF HUMAN RIGHTS  
AND FREEDOMS OF MONTENEGRO**



**ANNUAL REPORT OF THE  
NATIONAL MECHANISM FOR  
PREVENTION OF TORTURE  
FOR 2013**

**Podgorica, June 2014**



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## I. INTRODUCTION

By ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 31 December 2008<sup>1</sup> (hereinafter OPCAT), Montenegro assumed the obligation to "set up, designate or maintain at the domestic level one or several visiting bodies for the prevention of torture and other cruel, inhuman or degrading treatment or punishment".

The Law on the Protector of Human Rights and Freedoms, which came into force on 23 August 2011<sup>2</sup>, established Protector<sup>3</sup> as a National Mechanism for Prevention of torture and other forms of cruel, inhuman or degrading treatment or punishment (hereinafter referred to as: NPM).

The role of the NPM is to take measures to prevent torture and other forms of cruel, inhuman or degrading treatment or punishment by conducting regular visits to places where persons are deprived of their liberty or their movement is restricted by the order of a court or other governmental body.

Under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment<sup>4</sup>, the NPM has the power to:

- a) To regularly examine the treatment of the persons deprived of their liberty in places of detention as defined in article 4, with a view to strengthening, if necessary, their protection against torture and other cruel, inhuman or degrading treatment or punishment;
- b) To make recommendations to the relevant authorities with the aim of improving the treatment and the conditions of the persons deprived of their liberty and to prevent torture and other cruel, inhuman or degrading treatment or punishment, taking into consideration the relevant norms of the United Nations;
- c) To submit proposals and observations concerning existing or draft legislation.

In order to examine the current situation when it comes to authorities, organizations and institutions where persons are deprived of their liberty or their movement is restricted and provide expert opinion, the Protector has established an advisory body composed of experts in the relevant field, who are members of the NPM. The multidisciplinary composition of this expert body contributes to a comprehensive understanding of the situation, objective conclusions and quality recommendations. NPM team consists of: Protector Šučko Bakovic, Deputy for prevention and protection from torture Peter Ivezić, Secretary of the Institution Zdenka Perovic, Advisers Marijana Sindić and Dragan Radovic and Doctor spec. of court medicine Nemanja Radojevic.

Starting from the current state of examined institutions in the field, the Protector in the role of the NPM prepared this report in accordance with Articles 25 and 47 of the Law on the Protector of Human Rights and Freedoms.

This Report is the first annual report of the Protector of Human Rights and Freedoms in the role of the National Mechanism for Prevention of Torture.

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<sup>1</sup> The Law on Ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman Degrading Treatment or Punishment (Official Gazette of Montenegro - International Treaties, No. 9/08);

<sup>2</sup> Official Gazette of Montenegro, No. 42/2011;

<sup>3</sup> All terms used for individuals mentioned in this report in the masculine gender include the same terms in the feminine gender;

<sup>4</sup> Article 19 of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), the UN General Assembly (A/ReS/57/199) of 18.12.2002.

## **II. ORGANIZATIONAL STRUCTURE OF THE NPM AND WORKING CONDITIONS**

Through completing the legislative framework preconditions for the operation and functioning of the NPM have been created. Deputy Protector for the Prevention of Torture was appointed and a consultant in the field of prevention has been employed. By doing this, the initial conditions for the operation and functioning of the NPM were secured. Technical equipment was provided partly from the budget, and partly donated by OSCE Mission to Montenegro.

Also, in the organization and with the financial assistance of the OSCE, the team members participated in the study visit to the Spanish Ombudsman, who is also designated as the NPM, and got acquainted with the work and functioning of this mechanism, in similar conditions.

The NPM currently does not have an adequate workspace yet, and this is one of the obstacles to confidential planning and implementation of activities. The additional space was requested, this request was renewed earlier this year, and we expect this problem to be solved.

The Action Plan of the Government of Montenegro for Chapter 23 anticipated the employment of another Advisor to the Protector for performing NPM operations in 2014 with what all planned working positions will be occupied.

## **III. METHODOLOGY OF WORK**

In 2013, the National Mechanism for Prevention of Torture conducted its activities on the basis of the annual work plan. Visits to places where persons are deprived of their liberty were conducted in accordance with the good practice of the European Committee for the Prevention of Torture and by so called "step by step" approach, through the communication with the management of visited institutions and in accordance with the predetermined schedule.

In-depth preparations for the visit have been conducted before each visit, questions are prepared in advance - questionnaires, separately for the competent services in institutions and for persons deprived of their liberty and the division of activities among team members is performed.

The NPM team members, in occasion of conversations with officials informed them which places are selected to be visited, who will be interviewed, which documents and records they want to view. In addition, they pointed out the possible need for provision of other information.

Visits included all premises and places where there are or may be accommodated persons deprived of their liberty. This included the inspection of conditions of accommodation, collective premises, working premises, recreation premises, ambulatories, toilets, premises for family visits, general visit, premises for conversation with a lawyer, polygons for outdoor activities, and other auxiliary facilities and premises.

During their visits to places in which are accommodated persons deprived of their liberty or other places, the NPM team talked with persons deprived of their liberty and officials, they reviewed the current situation, asked questions, filled out prepared questionnaires and recorded other useful

information obtained during the visits. When needed, they took photos so to adequately document the material, which will be the basis for possible subsequent recommendations.

After the visit, the team would meet officers again and presented observations and first impressions and discussed the possibilities to immediately correct noticed defects or irregularities, of course, depending on the real possibilities and their nature.

At this point we are pointing out to the role and mode of action of preventive mechanism and the difference in relation to the inspection control. The NPM is a mechanism in partnership to state institutions and its goal is the prevention of torture, respect and promotion of human rights of persons deprived of their liberty as a vulnerable category. The NPM has no repressive powers. It points out also to some conditions and circumstances that have so far been possible and common as stereotypes or prejudices. Its first goal is to achieve the desired standards in this area in the quickest and most painless way.

After the visit, the NPM team made the analysis of the collected material, they systematized observations, summarized impressions and, based on this, drafted an individual Report on visited institution.

The Protector of Human Rights and Freedoms of Montenegro as the NPM, on the basis of individual Reports on visited institutions, compiled this Annual Report of the NPM.

#### **IV. ACTIVITIES OF THE NATIONAL MECHANISM FOR PREVENTION OF TORTURE IN 2013**

Pursuant to the Activity Plan for 2013, the NPM has conducted 21 regular visits and two (2) follow up visits of premises where are accommodated persons deprived of their liberty or persons with restricted movement. With these visits, 82% of the plan was fulfilled. Visits were mainly unannounced, conducted during and after working hours, five of which were conducted at night.

Regular visits covered organizational units of the Police Directorate, as follows:

- Centres and departments of security in Podgorica, Bar, Budva, Berane, Niksic, Pljevlja, Herceg Novi, Andrijevca, Danilovgrad, Ulcinj, Kotor, Tivat, Plav, Plužine, Rozaje, Zabljak and Šavnik;
- The organizational units of the Institute for Execution of Criminal Sanctions, as follows:
  - Prison in Bijelo Polje
  - Remand Prison and Prison for short sentences;
  - Prison for short sentences in Podgorica and
  - Penal reformatory home Spuž.

Follow-up visits were done in:

- Remand Prison in Podgorica and
- Specialized Hospital for Psychiatry in Dobrota - Kotor.

#### 4.1. Earlier activities of the Protector

In 2008, therefore before it was designated as the NPM, the Protector of Human Rights and Freedoms of Montenegro, according to its legal responsibilities and powers, conducted visits of the premises for detention of persons deprived of their liberty in the regional units of the Police Directorate in Podgorica and Bar and branch offices in Kolasin, Rozaje and Ulcinj. On that occasion, it was found that none of the premises meet the conditions corresponding to the CPT's standards, as well as to the Rulebook on the conditions that must be met in facilities for detention of persons deprived of their liberty<sup>5</sup>, issued by the Ministry of Internal Affairs of Montenegro. Premises were not big enough, they didn't have natural lighting, heating devices and ventilation, were not equipped with fixed benches and chairs.

Based on the findings, the Protector gave final opinion and recommended to the Police Directorate to take all necessary actions and measures to ensure the fulfilment of the conditions that need to be met in facilities for detention of persons deprived of their liberty in regional units and branch offices of police and to harmonize them with international standards in this area and the Rulebook on the conditions that must be met in facilities for detention of persons deprived of their liberty.

During 2011, the Protector has conducted monitoring of all premises for detention of persons deprived of their liberty located in centres and departments of security of the Police Directorate and drafted a Special Report on the state of the Police Directorate's premises for detention of persons deprived of their liberty, issued in 2011, where he gave 17 recommendations. The Committee for Human Rights and Freedoms of the Parliament of Montenegro considered the Report (on 12 December 2011) and supported given recommendations.

The report, among other things, pointed out that a number of premises for detention do not fulfil the conditions provided for by the then current Rulebook on the conditions that must be met in facilities for detention of persons deprived of their liberty. In Article 3 the Rulebook stipulated that "Detention facilities must have adequate surface, depending on the number of persons who reside in them. Area per person shall not be less than 5m<sup>2</sup>, where the distance from wall to wall must be at least 2m, the distance from floor to ceiling in the room must be at least 2.5 meters so to secure appropriate air capacity".

In the period from 11 July to 10 August 2012, were carried out follow-up visits to regional units and branch offices of the Police Directorate, during which we assessed the situation and checked fulfilment of recommendations given in the Special Report on the state of the Police Directorate's premises for detention of persons deprived of their liberty from 2011.

In September 2012, we prepared the Information on acting of the Police Directorate toward the recommendations of the Protector given in the Special Report on the state of the Police Directorate's premises for detention of persons deprived of their liberty, from 2011. In the Information it was concluded that the Police Directorate removed significant number of defects as listed in the Special Report. The situation in relation to hygienic conditions, ventilation and heating has been especially improved. Mentioned Information was submitted to the Parliament's Committee for Human Rights and Freedoms, and it was discussed at the session on 6 February 2012.

In the period from 3 to 31 December 2012, the Protector, for the first time in the role of the NPM, made a visit to the Remand Prison in Podgorica and based on that, in March 2013 prepared the Report on the situation in the Remand Prison in Podgorica. The Report was considered and recommendations

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<sup>5</sup> Official Gazette of the Republic of Montenegro, No. 57/2006;



supported by the Parliament's Committee for Human Rights and Freedoms on its session of 6 June 2013.

## **4.2. Activities in 2013**

### **4.2.1. Police detention facilities**

In 2013 (in period from May - December) the NPM conducted 17 visits to detention facilities of the Police Directorate of the Ministry of Internal Affairs, in the Centers of Security Bar, Budva, Berane, Herceg Novi, Niksic, Podgorica, Pljevlja and Departments of Security Andrijevci, Danilovgrad, Kotor, Tivat, Plužine, Plav, Rozaje, Ulcinj, Zabljak and Šavnik. Visits were conducted during and after working hours and during state and religious holidays, according to a predefined plan and working methodology. All visits were unannounced, and five were conducted at night (Podgorica, Ulcinj, Bar, Kotor and Budva). Visits to detention premises of: CS Bijelo Polje, DS Cetinje, Mojkovac and Kolasin were made in the second quarter of 2014, and will be the subject of the Report of the NPM for 2014.

During visits, the NPM team members were provided with unrestricted access to all areas where persons deprived of their liberty are accommodated, premises for the interrogations and informative interviews, and other areas for which they have expressed interest to visit, as well as with unrestricted insight to requested documentation. Officers of the Police Directorate have shown the necessary level of cooperation and were providing additional information whenever they were asked.

The purpose of these visits was an insight into the respect for the rights of persons deprived of their liberty, control of conditions in detention facilities, the number and area and volume of rooms, prescribed furniture, bedding, type and intensity of light in rooms, with a special emphasis on the ability to read written text without activating the artificial light, heating, ventilation, hygiene conditions in premises, equipment of sanitary facilities, access to potable water, way of communicating of officers with detained persons, video surveillance.

During the visits interviews were conducted with the present persons, it was verified whether the premises for conducting interrogations and informative interviews are supplied with non-standard items, which could be used for intimidation, abuse and torture, the vehicles that are used for the transport of persons deprived of their liberty were inspected, police records, with special reference to the register of persons deprived of their liberty and detained persons have been also checked but also duration of detention of persons deprived of their liberty, the right to meals, the way of making and keeping the minutes on detention, storage of seized objects and other.

#### **4.2.1.1. Treatment of persons deprived of their liberty**

During the visits to the organizational units of the Police Directorate, in the detention premises of the Centres of Security Bar, Budva and Podgorica, five (5) detained persons were found, and interviews with them were conducted without the presence of officials, as follows:

- In CS Podgorica, in a single room the team found detained SH.GJ, citizen of the Republic of Albania, who was detained according to the decision of the Basic State Prosecutor in Podgorica, up to 48 hours, and whose detention was accompanied by adequate documentation. In the interview the person said that he was told his legal rights in his mother tongue, as well as that the officers treated him in a fair and professional manner.
- In CS Bar in triple room were accommodated two (2) detained persons: N.P, citizen of the Republic of Serbia and A.Z, citizen of Bosnia and Herzegovina, residing in Bar, according to the decision of the Basic State Prosecutor in Bar, up to 48 hours, whose detention was

accompanied by adequate documentation. In the interview they emphasized that they were taught that they have the right to a lawyer and other rights pertaining to them, as well as that the officers treated them in a professional manner.

- In the premises of the CS Budva were accommodated two persons, who due to the reconstruction of a detention premises were settled on the lateral parts of the central hall on the ground floor, overseen by officials and covered by video surveillance. One person M.J. from Paracin, citizen of the Republic of Serbia, was detained according to an international warrant issued by NCB Interpol Belgrade, Republic of Serbia, for the criminal offense of smuggling, issued by order of the Basic Court in Paracin, for prison sentence. The other person of B.S, citizen of Bosnia and Herzegovina with residence in Budva, was detained by the order of Regional authority for misdemeanours in Budva for 7 hours due to traffic violation. Both persons have stated that they are treated very fairly and professionally.

#### **4.2.1.2. Material Conditions**

##### **4.2.1.2.1. Detention facilities and pertaining equipment**

During visits it was found that all 17 examined organizational units of the Police Directorate have detention facilities, and these facilities in departments of security in Andrijevica and Šavnik are not in use. Detained persons from DS Andrijevica are transferred to CS Berane, while DS Šavnik transfers detainees to DS Zabljak.

- CS Bar has two detention facilities, one single and one triple. Single room's dimensions are 4x1,7m or 6,8m<sup>2</sup> and triple room's dimension are 3,4x3,4m or 11.56 m<sup>2</sup>;
- In the time of the visit in CS Budva in the course was the reconstruction of detention facilities;
- CS Berane has two double rooms, each measuring 4,5x3,4m or 14,4m<sup>2</sup>;
- CS Herceg Novi has two detention facilities, single and double. Single room dimensions are 3x2,5m or 7,5m<sup>2</sup>, and the double has "Γ" shape, of dimensions 3x3m + 2x2m or 15m<sup>2</sup>;
- CS Niksic has a double and a single room of dimensions, 4,3x2,7m or 11,61m<sup>2</sup> and 2x2,8m or 5,6 m<sup>2</sup>;
- CS Pljevlja has four single rooms, each measuring 4,2x1,6m or 6.72m<sup>2</sup>;
- CS Podgorica has 10 rooms, out of which eight are single, each measuring 3,3x2,7m or 8,91m<sup>2</sup>, one triple in size 5,5x2,7m or 14,85m<sup>2</sup> and one five-bed room of dimensions 5,76x5,35m or 30.81 m<sup>2</sup>;
- DS Danilovgrad has two rooms, a double and a single of dimensions 4 x 3m or 12m<sup>2</sup> and 4 x 2m or 8m<sup>2</sup>;
- DS Kotor has two detention facilities, single of dimensions 2,05x2,5m or 5,12m<sup>2</sup> and double of dimensions 2,3x2,8m or 6,44m<sup>2</sup>;
- DS Plužine has one single detention room of 5m<sup>2</sup>;
- DS Plav has two single rooms each measuring 2.5m x 1.3m, or 3,25m<sup>2</sup>;
- DS Rozaje has two double rooms, each measuring 3 x 4m, or 12m<sup>2</sup>;
- DS Tivat has two rooms, one single and one double, each measuring 2.60 x 1.85m, or 4,81m<sup>2</sup>;
- DS Ulcinj has two double and one single room, double room measuring 5.7x1.8m, or 10.26m<sup>2</sup> and single 2.90x2m or 5,8m<sup>2</sup>;
- DS Zabljak has two single rooms, each measuring 2.20 x 1.60m, or 3,52m<sup>2</sup>;

All detention facilities in visited centres and departments of security of the Police Directorate are equipped with: fixed wooden beds and small tables, mattresses and appropriate bedding (pillows and blankets).

In addition, all rooms have built-in intercoms and in that way detained person, at all times, can establish communication with officers.

Looking at the overall condition of the premises for detention, NPM has found that a number of rooms does not meet the requirements in terms of their size and dimensions provided by the standards of the European Committee for the Prevention of Torture (hereinafter referred to as CPT), Chapter 1 Police custody, Excerpt from general report number (CPT / Inf (92) 3), paragraph 43, which states, inter alia: **“police cell intended for single occupancy for stays in excess of a few hours: should have the surface of 7 square metres, 2 metres or more between walls, 2.5 metres between floor and ceiling.”**

In the 2011 Report of the Protector on the condition of the Police Directorate premises for detention of persons deprived of their liberty, the Protector noted that a number of premises for detention does not fulfil the conditions provided for by, at the time current, Rulebook on the conditions that must be met in facilities for detention of persons deprived of their liberty. Rulebook, Article 3 was stipulating that ***"Detention facilities must have adequate surface, depending on the number of persons who reside in them. Area per person shall not be less than 5m<sup>2</sup>, whereby the distance from wall to wall must be at least 2m, the distance from the floor to ceiling of the room should be at least 2.5 meters in order to provide adequate volume."***

However, the recommendations given in the report from 2011 have not been implemented in relation to the dimensions or surface of detention facilities. In that sense, the situation on the field was not improved, but the regulation – the Rulebook was adjusted to fit the existing premises. More precisely, a new Rulebook on the conditions that must be met in facilities for detention of persons deprived of their liberty was adopted, which in Article 2, among other things, provides that: **"the surface area of the detention premises for one person, without equipment and sanitary part, may not be less than 5m<sup>2</sup>, and if the detention premises are intended for several persons, their surface area must be 1m<sup>2</sup> bigger for each subsequent person."** Thus, the current Rulebook on the conditions that must be met in facilities for detention of persons deprived of their liberty partially is not in accordance with the standards recommended by the CPT.

#### **4.2.1.2.2. Facilities for interrogation and informative interviews**

Interrogation and interviews are conducted in the offices - the official premises of the Police Directorate. During conducted visits, in these premises were not found non-standard items that could indicate the possibility of using them for the purpose of intimidation or torture, nor are found traces of such possible actions.

In the CS Bar in premises for interrogations and interviews, the team found three persons, detained on reasonable suspicion of having committed the criminal offense of unauthorized production and trafficking of narcotics. Inspectors on duty at the time of the visit of the NPM team were conducting an interview with those persons. In the subsequent interview with the members of the NPM team those persons pleaded no complaints about the treatment of police officers and that they were informed of the rights they are entitled by the law.

#### **4.2.1.3. Right to food**

According to the Rulebook on the manner of conducting certain police activities and the exercise of power in conducting such activities<sup>6</sup>, for all persons who are detained longer than 12 hours, food shall be provided in three meals per day (breakfast, lunch and dinner).

During the conversation with police officers on duty, the NPM team has been notified that dry meals (sandwiches) are provided. It was found that records of detained persons' diet have been properly kept in visited organizational units

During the visits to facilities for detention, persons found in detention facilities have indicated that they regularly receive meals.

#### **4.2.1.4. Transportation vehicles**

Centres of Security of the Police Directorate possess vehicles intended exclusively for the transportation of persons deprived of their liberty. Departments of Security do not possess vehicles intended exclusively for the transportation of persons deprived of their liberty. Transportation is carried out with other official police vehicles - patrol cars. Inspection of the existing vehicles used for the transport of persons deprived of their liberty is performed and on that occasions there were not found non-standard items that could be used for intimidation or torture of detainees, or traces that would indicate the use of such items.

#### **4.2.1.5. Hygiene, lighting, ventilation, heating**

Detention facilities in visited organizational units have been clean, dry, painted and with no moisture except in CS Berane, where the premises were unpainted and there was a strong smell of moisture. Ventilation and heating are provided in accordance with the standards in CS Bar, Berane, Podgorica, Herceg Novi, Niksic, Pljevlja and DS Ulcinj, Kotor, Tivat, Danilovgrad, Plav, Rozaje and Pluzine, while premises in DS Zabljak were not provided with adequate ventilation.

In detention facilities in CS Podgorica, Bar, Pljevlja and DS Tivat and Rozaje the natural lighting is provided. In CS Berane natural light is very weak, while in CS Herceg Novi, DS Kotor, Ulcinj, Danilovgrad, Plav and Zabljak, is not provided.

Also, in all detention facilities artificial lighting is functioning.

#### **4.2.1.6. Access to drinking water and toilets**

- In CS Bar toilets are located between detention premises, as a separate entity and are occupying two units with built-in toilet seats and squatting. The sink is installed on the external wall. In detention facilities there are faucets for drinking water and metal sinks. In triple room, a certain (programmed) amount of water is activated and released through the sensor and in a single room, the water is activated by a police officer, at the request of a detained person;
- In CS Berane detention facilities are not equipped with toilet premises. Toilet premises are located on the first floor, and are intended for employees, but also are used by detained persons. In the very detention premises drinking water is not provided. Detained persons are escorted to the first floor to use drinking water and toilet premises;
- In CS Budva the reconstruction was ongoing;

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<sup>6</sup> (Official Gazette of Montenegro, No. 05/07)

- In CS Podgorica there are separate sanitary premises for men and women, equipped with three sinks, three toilet seats and one shower cabin. Sanitary premises are located next to the detention premises and exclusively intended for detained persons. In detention premises there are faucets for drinking water with a metal sink, which is activated by pressing the button above the sink and is releasing programmed amount of water. The system is functioning. Compliance with the prescribed standards is at high level;
- In CS Niksic there is a sanitary facility located next to a detention premises in a separate room and it is equipped with sink and squatting. A faucet for drinking water with the sink is built in. The valve is mounted on the external wall of detention premises and water is activated by a police officer, at the request of a detained person;
- In CS Herceg Novi sanitary facility is located in the access corridor on the right side in front of the detention premises, in two rooms in which sinks and squats are installed. In detention facilities there are faucets for drinking water with a metal sink. The water is activated by a police officer at the request of a detained person, by opening a valve which is mounted on the external side of a detention premise;
- In CS Pljevlja sanitary facility is located next to detention premises in a room with installed sink and toilet seat. In detention facilities, there are water faucets with a metal sink, activated by a police officer at the request of a detained person via intercom;
- In DS Kotor sanitary facility is located next to detention premises in a separate room and is equipped with a sink and a squat toilet. In detention facilities there is faucets for drinking water with a metal sinks, which are activated at the request of a detained person. The water is activated by a police officer through a valve which is mounted on the external wall of the detention premises;
- In DS Tivat sanitary facility is located next to detention premises in a separate room and is equipped with a sink and a squat toilet. In detention facilities there is faucets for drinking water with a metal sinks, which are activated at the request of a detained person. The water is activated by a police officer through a valve which is mounted on the external wall of the detention premises;
- In DS Ulcinj sanitary facility is located between the detention premises in a separate room and is equipped with a sink and a squat toilet. When visited the sanitary facility was messy. In detention facilities there is faucet for drinking water with a metal sink, which is activated at the request of a detained person. The water is activated by police officer through a valve which is mounted on the external wall of the detention premises;
- In DS Danilovgrad sanitary facility is located next to detention premises and is equipped with a sink and toilet seat. In detention facilities, there is a water faucet with a metal sink, which is activated by a police officer at the request of a detained person via intercom;
- In DS Plav sanitary facility is located next to detention premises in the room with installed sink and squatting. When visited the sanitary facility was messy. In detention facilities, there are water faucets with a metal sink, activated by a police officer at the request of a detained person via intercom;
- In DS Zabljak sanitary facility is located next to detention premises in the room which is equipped with a sink and toilet seat. For both premises access to drinking water is provided;
- In DS Rozaje sanitary facility is located between detention premises and is equipped with a sink and a squat toilet. In detention facilities, there are water faucets with a metal sink, which are activated by a police officer at the request of a detained person via intercom.

#### **4.2.1.7. Video Surveillance**

Video surveillance systems cover detention facilities, corridor outside the official premise up to detention premises in Centres to security Bar, Pljevlja and Departments of security Kotor, Tivat, Plužine and Danilovgrad.

The following were not covered by video surveillance:

- In CS Podgorica, entrance of a corridor that leads from the garage to the detention facilities;
- In CS Niksic, part of the stairs leading to the detention facilities;
- In CS Herceg Novi, a corridor that leads from the official premises to the detention premises with stairs;
- In CS Berane, a corridor that leads from the official premise to the detention premises which includes two corridor and stairs, and this area is constantly in the dark;
- In DS Ulcinj, stairs and access corridor that leads to detention premises;
- In DS Plav, access corridor and part of the stairs that leads to detention premises;
- In DS Rozaje, a corridor that leads to detention premises;
- In DS Zabljak, access corridor with stairs leading to detention premises.

#### **4.2.1.8. Safety of electrical cabinets**

The NPM team found out that the electrical cabinets are secured in accordance with standards. They are closed and locked and inaccessible to unauthorized persons in the CS Bar, Berane, Podgorica, Herceg Novi, Pljevlja and DS Danilovgrad Plužine, Plav, Tivat, Rozaje, Zabljak, while in CS Niksic and DS Kotor and Ulcinj, the electrical cabinets are not locked and so can be accessible to unauthorized persons.

#### **4.2.1.9. Records of persons deprived of their liberty and detained persons**

The NPM team has inspected the Registers of persons deprived of their liberty (on the basis of the misdemeanour) and detained persons (on the basis of criminal offenses). Several cases that were formed during detention or deprivation of liberty were inspected by the methodology of a random sample. From the examined cases it follows that detained persons were given so-called "Informational leaflet for detained persons" containing description of the rights of detained persons on Montenegrin language or language that detained person understands.

In course of visiting organizational units, the NPM team by examining the registries of persons deprived of their liberty and detained persons, has concluded that:

- In CS Bar in the period from 1 January to 16 July 2013, 321 persons were deprived of liberty and 79 persons were detained;
- In CS Budva in the period from 12 April to 17 July 2013, 141 persons were deprived of liberty. The second part of the registry for the period from 1 January to 11 April 2013, according to the statement of on-duty officer, is in the archives, which at that time was unavailable due to renovations of the facility. In the period from 1 January to 14 July 2013, 75 persons were detained;
- In CS Berane in the period from 1 January to 27 May 2013, 50 persons were deprived of liberty and 8 were detained;
- In CS Podgorica in the period from 1 January to 13 July 2013, 937 persons were deprived of liberty and 108 persons were detained;

- In CS Niksic in the period from 1 January to 12 December 2013, 969 persons were deprived of liberty and 75 persons were detained;
- In CS Herceg Novi in the period from 1 January to 7 August 2013, 171 persons were deprived of liberty and 33 persons were detained;
- In CS Pljevlja in the period from 3 January to 30 October 2013, 189 persons were deprived of liberty and 16 persons were detained;
- In DS Ulcinj in the period from 1 January to 8 August 2013, 109 persons were deprived of liberty and one person was detained;
- In DS Kotor in the period from 1 January to 5 September 2013, 241 persons were deprived of liberty and 155 were detained;
- In DS Plužine in the period from 1 January to 12 December 2013, 12 persons were deprived of liberty and no person was detained;
- In DS Tivat in the period from 1 January to 5 September 2013, 107 persons were deprived of liberty and 98 persons were detained;
- In DS Zabljak in the period from 8 January to 30 October 2013, 33 persons were deprived of liberty and 12 persons were detained;
- In DS Plav in the period from 1 January to 20 December 2013, 98 persons were deprived of liberty and 20 persons were detained;
- In DS Danilovgrad in the period from 8 January to 5 November 2013, 231 persons were deprived of liberty and eight persons were detained;
- In DS Andrijevca in the period from 3 January to 20 December 2013, eight persons were deprived of liberty, and two persons detained (in the premises of CS Berane);
- In DS Rozaje in the period from 1 January to 21 December 2013, 77 persons were deprived of liberty and 33 persons detained and
- In DS Šavnik no person was recorded in the register of persons deprived of their liberty and detained persons.

In an interview with the responsible officials of the Ministry of Internal Affairs - Police Directorate, the NPM team found out that there is no separate registry for records on persons who get invited for informative interview for the purposes of collecting information pursuant to the Article 259 of the Criminal Procedure Code of Montenegro, what CPT pointed out in its report on Montenegro on 17 July 2013 and recommended keeping of such registry.

#### **4.2.1.10. Conclusions and recommendations**

Considering the situation in detention facilities in the organizational units of the Police Directorate - Ministry of Internal affairs in terms of accommodation, hygiene, heating, lighting, ventilation, sanitary conditions in order to respect the human rights of detained persons, NPM notes that a number of rooms for detention does not meet the requirements of the CPT recommended for police detention.

The NPM also notes that the registers of persons deprived of their liberty and registers of detained persons in organizational units have been properly kept and followed with accompanying documentation.

Persons found in the detention premises pleaded to be treated fairly by the officers of the Police Directorate.

Starting from the state concluded in this report, the Protector as NPM recommends to the Ministry of Internal Affairs - Police Directorate to:

- Harmonise the Rulebook on the conditions that must be met in facilities for detention of persons deprived of their liberty (Official Gazette of Montenegro No. 52/2012) with the standards of the CPT;
- Conform detention facilities for persons deprived of their liberty in CS Bar, Pljevlja and DS Kotor, Plav, Tivat, Ulcinj, and Zabljak with CPT's standards in terms of their size and dimensions;
- Provide natural lighting in detention facilities in CS Berane and Herceg Novi, DS Danilovgrad, Kotor, Ulcinj, Plav and Zabljak;
- Install faucet for drinking water with the sink in detention facilities in CS Berane;
- Provide for locking of electrical cabinet in CS Niksic and DS Kotor and Ulcinj;
- Provide full coverage with video surveillance of uncovered areas - access to official premises, corridors, stairs, etc. in CS Podgorica, Berane, Herceg Novi and Niksic, DS Zabljak, Ulcinj, Plav and Rozaje;
- Provide artificial illumination of the corridor which leads to a detention premises in CS Berane;
- Provide regular maintenance of hygiene in sanitary facilities in DS Ulcinj and Plav;
- Paint detention facilities in CS Berane.

#### **4.2.2. Prison in Bijelo Polje**

In the period from 27 to 30 May 2013, the Protector of Human Rights and Freedoms of Montenegro, in the framework of the activities envisaged by the working plan of the NPM for 2013, started reviewing the general conditions of accommodation and other conditions in the Prison in Bijelo Polje, which has two organizational units, Remand Prison and Prison for Short Sentences.

From the conversation with the Administration of the Prison in Bijelo Polje the following data were obtained:

##### Capacity of the Remand Prison is 80 places;

- In time of visit there were accommodated 43 detainees;
- The occupancy rate at the time of the visit was 55%;
- A number of detainees had the opportunity to use their own bedding;
- The average age of detainees was 35, the oldest detainee was 58 and the youngest 17;
- As the most common reason for detention is the criminal offence of unauthorized production and trafficking of drugs;
- The average length of detention was 1.2 years;
- In a period from 1 January to 27 May 2013, 17 illegal objects were seized, out of which the most common were mobile phones;
- In the same period 4 (four) disciplinary sanctions were pronounced;

##### Capacity of the Prison for Short Sentences is 80 places;

- In time of visit there were accommodated 56 convicted persons and persons sanctioned for misdemeanour offence;
- The occupancy rate at the time of the visit was 70%;
- 6 disciplinary sanctions were pronounced;
- in a period from 1 January to 28 May 2013 1 (one) case of self-injury was registered;
- The average age of detainees was 35, the oldest detainee was 77, and the youngest 18;

In conversation, the Prison Administration informed the members of the NPM about the following:



- In the Prison there are employed 60 persons in total, out of which seven (7) are with an university degree, six (6) with a college degree and 47 persons with secondary education;
- 29 persons are employed for an indefinite period and 31 for a limited period;
- The security service has 49 employees, out of which 5 are women (or 10.20%);
- Operation of security service is organized in two shifts, each lasting 12 hours (7-19h and 19-7h);
- All services in the prison are collective (for Remand and Prison for short sentences).

The NPM team has reviewed the situation and examined material and other conditions in the Prison. Special attention was given to the issues of: health care, access to drinking water, nutrition, hygiene, ventilation, lighting, bathroom and sanitary facilities, the size and capacity of the rooms and solitary confinements, regime of activities outside accommodation, disciplinary proceedings, etc.

During the visit, the chief and prison officers of the Prison in Bijelo Polje, showed a high level of cooperation and collaboration. Members of the NPM had unfettered access to all areas and facilities in which are accommodated detained and convicted persons, other rooms and areas in which are accommodated employees. They also, whenever they were asked, provided additional information.

#### **4.2.2.1. Material conditions in remand Prison in Bijelo Polje**

##### **4.2.2.1.1. Conditions in rooms / solitary confinements**

###### ***a) Size, capacity and equipment***

Occupancy rate in May 2013 was 55%. In Remand prison at the time of the visit were situated 43 persons.

###### *Capacity and surface area in collective rooms*

- ground floor, room number 12 of 19 m<sup>2</sup>, 2 persons were accommodated, 3 single beds, or 9.5 m<sup>2</sup> per person, and 6.33 m<sup>2</sup> per bed; room number 16 of 7m<sup>2</sup>. 1 person accommodated, one single bed, or 7m<sup>2</sup> per person and the bed; room number 22 of 30 m<sup>2</sup>. 5 persons accommodated, 6 beds or 6 m<sup>2</sup> per person, and 5 m<sup>2</sup> per bed;

- first floor, room number 1 of 30m<sup>2</sup>, 6 persons accommodated, 6 beds or 5 m<sup>2</sup> per person and the bed; room number 2 of 29m<sup>2</sup>, 6 persons accommodated, 8 beds or 4,8m<sup>2</sup> per person and per bed 3,62m<sup>2</sup>; room number 3 of 13m<sup>2</sup>, 2 persons accommodated, 4 beds or 6,5m<sup>2</sup> per person and 3.25 m<sup>2</sup> per bed

Rooms for execution of the disciplinary measure "isolation" are of the size 4,70x 1.47 m, and have a surface area of 6.96 m<sup>2</sup>, and do not fulfil the standards required by the Rulebook on the manner of execution of detention<sup>7</sup> and the European Prison Rules.

During the visit two minors were found in the collective room together with adult detainees. NPM concludes that Remand Prison does not possess separate facilities for juveniles but they are accommodated together with adult detainees.

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<sup>7</sup> (Official Gazette of Montenegro, No. 42/12)

Beds and mattresses are mostly worn to the point of uselessness. Detainees pointed out the lack of pillows in particular. However, in the warehouse we found some new unpacked pillows and blankets, which were subsequently shared to detainees.

The furniture in the rooms and solitary confinement is worn or missing. There are not enough lockers for personal belongings provided by the prison, so they are forced to purchase the same at their own expense. It was also noted the insufficient number of tables and chairs.

In some collective rooms there were found extension cords used to connect additional electrical devices, such as refrigerators, televisions and other devices, indicating that the rooms are missing sockets. These cables can pose a potential hazard from both electric shock, and abuse.

In the institution no room is adapted for people with disabilities who use wheelchairs. At the time of the visit no person in a wheelchair was found.

#### ***b) Lighting, ventilation and heating***

Rooms and solitary confinements have conditions for natural ventilation, however natural and artificial light in a number of rooms is not satisfactory.

Ventilation in the rooms is not satisfactory.

The fact is that there are windows through which the airing can be done, but their size is not proportional to the surface and the number of persons who have been placed in them.

In all rooms there are units of steam heating – radiators.

#### ***c) Sanitary conditions***

Rooms, solitary confinements, corridors, offices and external environment at the time of the visit were relatively clean.

Sanitary facilities in most of the rooms do not meet the standards and their renovation is necessary, also adequate ventilation was not provided. In some rooms toilets are not physically separated at least with the paravane (cover), by which the privacy is violated.

On the ground floor there is one bathroom with a capacity of seven (7) shower cabins, which are coated with a waterproof material of white colour with a central boiler that works. The bathroom is clean, neat and dry; walls are painted, there is natural and artificial lighting, ventilation is functional. Bathroom is not adjusted for people with disabilities who use wheelchairs.

#### **4.2.2.1.2. The right to food and water**

All detainees have easy access to drinking water at all times. Detainees who are on prison regime of nutrition are assessing food as excellent and are fully satisfied with the quality and quantity. During the planning, preparation and delivery of meals, the needs of members of all religious communities are taken into account. To a smaller number of detainees, by their choice, the food is daily delivered by their families.

The kitchen is located within the Remand Prison with pantry warehouse, covering an area of 31 m<sup>2</sup>, painted, clean and dry, equipped with the necessary devices. Warehouse for storage is 30 m<sup>2</sup>, in which are located a large freezers, refrigerating display cabinets, rack cabinets for stacking canned food. The kitchen is designed for the needs of detainees and prisoners. Room for cooking and distribution of food is clean and tidy.

Cooked food that is delivered from the kitchen is placed on a trolley in large containers and distributed throughout the rooms. Detainees eat in the rooms where they keep cutlery. In front of each room on the corridor the cook shares portions to detainees.

#### **4.2.2.1.3. Hygiene**

In a number of rooms on the ground and the first floor the presence of moisture and mould is noticeable. The walls are unpainted; the detainees are trying to maintain hygiene as far as possible, although it is difficult with regard to old and worn premises that need to be renovated.

Most detainees are using their own bedding, which is relatively clean. The conditions for laundry are not provided, so laundry is sent home for washing or is washed in unsuitable manner in the rooms. Drying laundry in rooms increases humidity what creates an unhealthy microclimate. For cleaning and maintenance of the rooms, detainees are regularly supplied with cleansers from the institution in sufficient quantities.

Things for personal hygiene are generally acquired privately. Detainees who do not have that option complain that the prison administration has not provided so-called "Hygiene package", though it have an obligation to do so. According to statements of detainees, Prison Administration is providing soap and toilet paper irregularly.

#### **4.2.2.1.4. Right to health care**

Within the Remand Prison there is a room of 19 m<sup>2</sup>, designed for an ambulance, where are carried out examinations of detainees, convicted and persons sanctioned for misdemeanour offences.

Health service consists of two (2) medical technicians, working in two shifts, and they are available 24 hours a day. Every working day, and if necessary even out of working hours, a doctor is coming from the Health Center in Bijelo Polje.

All persons inform the security officer who is on duty about their need for a doctor, or apply for examination. Duty officer then submits the application to the health service. When the doctor determines the need for specialist examination or intervention, the person is sent to the Health Centre in Bijelo Polje and Clinical Centre of Montenegro. Some detainees have complained on long waiting for specialist examinations.

The prescribed treatment is registered in the form called "therapeutic list", which is kept for every patient in triplicate. One remains in the pharmacy, the second is given to the detained, convicted or person sanctioned for misdemeanour - patient, and the third to technician i.e. remains in ambulatory.

In addition to the ambulance, which generally meets the minimum requirements, with equipment that is partly worn out, there are also other facilities such are: dentist ambulatory of 25 m<sup>2</sup>, equipped only with a chair, and three other rooms of 20 m<sup>2</sup>, 30 m<sup>2</sup> and 19 m<sup>2</sup> of accompanying corridors and equipped bathroom of 9.5 m<sup>2</sup>, which are all unequipped and unused.

#### **4.2.2.1.5. The right to religious life**

Specific conditions for religious ceremonies are not provided nor there are special facilities provided for the religious practice and religious needs, except the specific needs in nutrition, as already stated above.

#### **4.2.2.1.6. Right to walk and recreation**

Within the Remand Prison in Bijelo Polje there is a circular concrete track on a grassy surface. There are no benches or eaves for protection from atmospheric precipitation and sunshine installed. During the visit, the material was brought and the renovation of this track as well as of concrete surfaces in front of the rooms and solitary confinements on the ground floor started.

We are informed that detainees are enabled to walk in the open air for a period of 40 minutes, 2 times a day, morning and afternoon, and that every day during the time for walking they have the opportunity to bathe.

#### **4.2.2.1.7. The right to contact with families and lawyers**

Detainees have the right on family visit for a period of one hour, once a week.

In the room envisaged for communication with a lawyer and for family visits, which is of size of 15 m<sup>2</sup>, at the same time 5 detainees can have visits. They are separated from visitors with transparent partition and are speaking via intercom. The room is covered by video surveillance, painted, clean and tidy.

In addition to this room, there is a room designed for children's visits. The room is painted, clean and dry, equipped with necessary furniture and on the walls are painted images of child heroes who are contributing to a more pleasant atmosphere.

#### **4.2.2.1.8. House rules**

During the conversation with detainees we were informed that upon the arrival at the Remand Prison, detainees were informed of the rights and obligations established by the house rules, i.e. the Rulebook on the manner of the execution of detention.

#### **4.2.2.1.9. Abuse**

According to the information obtained from the Prison Administration during 2013 there was no use of force. On the basis of the interviews with detainees and their statements that the treatment of officers to them is fair and professional, the NPM concluded that in the Remand Prison there were no abuse and torture.

#### **4.2.2.1.10. Disciplinary Measures**

Disciplinary measure "isolation" is generally imposed for illegal possession of a mobile phone. The procedure is performed correctly and detainee receives a decision on imposed disciplinary measure. Before starting with disciplinary measure of isolation, a prescribed medical examination is performed.

According to data obtained by the Prison Administration the disciplinary measure of isolation was imposed in four cases. In the interview during the visit, no detainee had objections to the conduct of proceedings and the imposing of disciplinary measure.

#### **4.2.2.1.11. Safety**

Facility of the Prison in Bijelo Polje is secured with internal and external security guards. Video surveillance covers: internal collective areas, access corridors, corridors, as well as dormitories' accessing areas, reception rooms for persons who come to visit, and all persons entering the prison building.

#### **4.2.2.1.12. Working conditions for employees**

Official premises meet the required conditions for the work of officers employed in the Prison in Bijelo Polje.

#### **4.2.2.1.13. Conclusions and recommendations**

Considering the state of human rights, the NPM has evaluated material conditions in Remand Prison in Bijelo Polje, which refers to the capacity, hygiene, nutrition, health care, heating, lighting, ventilation, sanitation and open space for walking.

The building that houses remand prison is old and worn out. Disciplinary rooms used for executing disciplinary measures do not meet the requirements in terms of size and surface area under the Rulebook on the manner of execution of detention.

In a number of rooms the presence of moisture and mould is noticeable, the walls are unpainted, mattresses are worn out, pillows missing, and metal beds in one section are worn out.

The NPM indicates that within the Prison there is no specially equipped premise for accommodation of persons with disabilities who use wheelchairs, as well as for special accommodation for juveniles.

Based on conducted interviews with detainees and the data obtained from the Prison Administration, the NPM is concluding that in Remand Prison there were no abuse and torture.

Based on the identified state, the Protector as the NPM recommends to the Ministry of Justice and the Institute for executing of criminal sanctions to:

- conform disciplinary premises to the standards set by the Rulebook on the manner of execution of detention and the European Prison Rules;
- replace worn out and provide missing furniture in rooms and provide required amount of mattresses;
- provide conditions for accommodation of detainees with disabilities who use wheelchairs (toilets, etc..)
- provide adequate natural and artificial lighting in the rooms;
- ensure adequate ventilation of rooms and sanitary facilities;
- make conditions for regular washing and drying of laundry;
- provide hygiene packages according to the Rulebook on the manner of execution detention for all detainees who have this need;
- provide separate facilities for religious practice and religious needs;
- provide separate accommodation for minors;
- bring to a purpose unused rooms;
- physically separate toilets in dormitories.

## 4.2.2.2. Material conditions in the Prison for short sentences in Bijelo Polje

### 4.2.2.2.1. Conditions in rooms / solitary confinements

#### a) Size capacity and equipment

Occupancy rate in May 2013 was 70%. At the time of the visit there were situated 56 persons.

Capacity and surface area in collective rooms is as follows:

- In the closed division: room number 1 with size of 18m<sup>2</sup>, three (3) persons were found during the visit, four (4) beds, meaning 6m<sup>2</sup> per person, or 4.5 m<sup>2</sup> per bed; room number 3 of 9m<sup>2</sup>, two (2) persons accommodated, two (2) beds, 4,5m<sup>2</sup> per person and bed; room number 2a of 30m<sup>2</sup>, eight (8) persons were accommodated, 16 beds, 3.75m<sup>2</sup> per person or 1.87 m<sup>2</sup> per bed; room number 7 of 10m<sup>2</sup>, three (3) persons number, four (4) beds, 3.33m<sup>2</sup> per person and 2.5 m<sup>2</sup> per bed;
- In semi-open division: room number 1 of 71m<sup>2</sup>, 16 persons accommodated, 16 beds, 4.43m<sup>2</sup> per person and bed; room number 2 of 73m<sup>2</sup>, 15 persons accommodated, 23 beds, 4.86m<sup>2</sup> per person and 3.17 m<sup>2</sup> per bed .

Based on these indicators it is evident that a large number of rooms do not meet international and national standards in terms of area and the conditions of accommodation of persons.

In some collective rooms bunk beds are connected, which denies the right on single bed and privacy. In order to meet acceptable international and national standards, the number of beds in rooms should be adapted with the existing surface area.

Beds and mattresses in part are obsolete, and in part are useless. The lack of pillows is evident.

In one room in the closed division, the wooden floor is completely worn out, so that the subsoil is visible.

Except beds, the other equipment in rooms is almost inexistent. Many prisoners are not provided with lockers for personal belongings, and are forced to purchase them at their own expense or they are keeping things in plastic bags on the floor and on the wall. In majority of the premises there is no sufficient number of tables and chairs.

Also, in a number of rooms in the closed division the team has found extension electrical cables used to connect the technical devices, so the lack of sockets is evident. In our opinion, these cables can pose a risk from electric shock as well as from potential abuse.

There is no room adapted for people with disabilities who use wheelchairs. At the time of the visit there was no convicted person who uses a wheelchair.

During the reporting year, and after the completion of the visit, the reconstruction of semi-open division was made. With the reconstruction four smaller rooms of the surface 35m<sup>2</sup> each were obtained and thereby significantly improved living conditions in terms of surface area and equipment. Each room is equipped with the necessary furniture to accommodate up to 8 persons. Within each room there is equipped bathroom.

A living room of 35 m<sup>2</sup> was also created during the reconstruction.

### ***b) Lighting, ventilation, heating***

At the time of the visit in the semi-open division, the natural and artificial lighting was poor. Rooms were of an area of over 70 m<sup>2</sup> and the windows were not enabling sufficient penetration of natural light and fresh air. Ventilation was poor with a strong presence of moisture and the whole area was filled with unpleasant odour.

The reconstruction provided natural and artificial lighting and ventilation.

In a closed division natural and artificial lighting and ventilation were satisfactory.

The prison has central heating.

### ***c) Sanitary conditions***

Access area and corridor of closed division are in very poor condition.

In the closed division prisoners have no access to drinking water in an area where they are accommodated. Drinking water is located in a shared bathroom. The bathroom has two toilets separated by dividing wall.

The toilets are in poor conditions hygienically, ceramics is worn with visible impairments, as well as with notable presence of moisture, mould and lime.

Ceramic bathroom floor was completely worn out and covered in water. Floor ceramics is damaged to the extent that the wooden board is placed over so to allow access to drinking water and toilets. The sink, which is constantly leaking water, is in very poor condition, so the floor is covered with water.

The interior walls of the bathrooms are unpainted with a lot of mould, humidity and the presence of stale air. There are no basic conditions for showering.

In the semi-open division, bathrooms are part of rooms. They are in good condition, clean and tidy, so that the prisoners in this part of the prison have unimpeded access to drinking water, toilet and hot water.

#### **4.2.2.2. Right to food**

Three meals a day are provided, according to the menu, which changes every fifteen days. The menu is tailored to the needs of persons pertaining to different religions.

Prisoners are generally satisfied with the quantity and quality of food

In closed division, the food is delivered from the kitchen, placed on a trolley in large containers and distributed throughout the rooms. In front of each room in the corridor in closed division the cook shares portions and hands them to prisoners in rooms.

In the semi-open division, the food is not delivered in the rooms, but to the access passage where prisoners take food and carry it to the tables in rooms.

#### **4.2.2.2.3. Hygiene**

In a number of rooms in the closed division, the walls are unpainted, with moisture and mould. The prisoners are trying to maintain hygiene within the limits of the possible, though it is difficult given that those are premises that need to be renovated.

The greatest number of prisoners use their own bedding that is mostly clean. There are no conditions for washing the laundry, so it is sent home for wash. One part of laundry is washed and dried in the rooms, which creates an unhealthy microclimate.

The institution provides cleaning supplies in sufficient quantities for cleaning and maintenance of rooms. For personal hygiene, administration provides soap and toilet paper, but, by the statement of the convicts, they are irregular and insufficient.

#### **4.2.2.2.4. Right to health care**

This right is analysed in this report under the Item 4.2.2.1.4.

#### **4.2.2.2.5. The right to religious life**

There are no special premises designed for practicing religion and satisfying religious needs of prisoners. Specific needs of nutrition in relation to members of the Islamic faith are met.

#### **4.2.2.2.6. Right to walk and recreation**

In the closed division there is a terrain in the open, which is used for walks. Terrain is rectangular of length 20m and of width 4 m. The protection from atmospheric precipitation and sunshine is not provided. In the field, there are two baskets for basketball and exercise equipment (benches, shaft and loom).

Unlike the closed, in the semi-open division, at the time of the visit, there was no space for walks. The reconstruction that followed the visit provided a space for walking of 96m<sup>2</sup>, with additional equipment (weights, push-ups devices and shaft).

#### **4.2.2.2.7. The right to contact with families and lawyers**

Convicted and persons sanctioned for misdemeanour offences are entitled to visits of members of their immediate family, twice a month, for 60 minutes. Visiting time is on Saturdays, Sundays, national and religious holidays. In addition to regular visits they have possibility of using extraordinary visits, if there are justifiable reasons for this, and with the approval of an authorized person, once a month, for 30 minutes.

There are installed telephone booths for convicted persons, and they are used in time periods previously envisaged for this.

#### **4.2.2.2.8. House rules**

During the interviews with prisoners we were informed that upon entering the prison convicts were informed on the rights and obligations that have been established in house rules, or the House Rules for enforcing sentences of imprisonment.



#### **4.2.2.2.9. Abuse**

In an interview during the visit, the prisoners have pleaded that the officers were treating them in a fair and professional manner.

This conclusion is also suggested by the fact that during the reporting there was no individual or group complaints by prisoners addressed to the Protector, regarding abuse, inhuman or degrading treatment or punishment.

#### **4.2.2.2.10. Disciplinary measures**

In the closed division, the disciplinary measure "isolation" is generally imposed for possession and use of a mobile phone. The procedure is performed correctly, a convicted person receives a decision on the inflicted measure and a medical examination is regularly performed before starting with the disciplinary isolation. No convict had objections to the conduct of proceedings and the imposition of disciplinary measure.

#### **4.2.2.2.11. Conclusions and recommendations**

Upon review of the situation in the Prison for short sentences in terms of accommodation, hygiene, nutrition, health care, heating, ventilation, lighting, sanitation and conditions for outdoors walks, the NPM states that in a closed division in a number of rooms there is moisture, mould, the walls are unpainted; beds and mattresses are worn out.

Wooden floor in one of the rooms for collective accommodation is so damaged that the subsoil is visible. The situation in the shared bathroom is very poor, ceramic floor is so damaged that the wooden board is placed over it in order to enable the access to drinking water and toilet to prisoners.

Starting from the identified conditions in the Prison for short sentences, the Protector as the NPM is recommending to the Ministry of Justice and the Institute for the execution of criminal sanctions to:

- adjust the number of beds in rooms to the rooms surface in the closed division according to the provisions of the Rulebook on the conditions that must be met in facilities for detention of persons deprived of their liberty and the European Prison Rules;
- provide the necessary furniture in the rooms in the closed division, as well as the required number of mattresses, pillows and adequate number of sockets;
- replace existing wooden floor in the collective room in the closed division;
- reconstruct bathroom in the closed division;
- provide accommodation conditions for prisoners with disabilities who use wheelchairs (toilets, etc.);
- provide adequate hygienic conditions in all rooms in closed division (insulation from water and moisture);
- provide drinking water in areas in which prisoners are accommodated in the closed division.
- provide conditions for regular washing and drying of laundry.

#### **4.2.3. Prison for short sentences in Podgorica**

The visit to the Prison for short sentences in Podgorica was conducted in the second half of July 2013. The Prison Administration responded to the submitted questionnaires, based on which we come to the following data:

- The capacity of the prison is 200 places;
- At the time of the visit there were 128 convicted and persons sanctioned for misdemeanour;
- The occupancy rate was 64%;
- The accommodation is collective, with a maximum number of eight (8) prisoners in one room;
- In the period from 1 January to mid-December 2013, 25 disciplinary measures were issued, most of which for possession of mobile phones;
- That there was one (1) case of self-injury;
- The average age of prisoners is 40, the oldest prisoner was 68 and the youngest 20;
- There was one convicted person with disability who uses a wheelchair;
- The average length of imposed prison sentences is around 3 (three) months and a maximum sentence of 6 (six) months;

In relation to the employees the Prison Administration gave the following information:

- That 35 persons are employed, out of whom three (3) persons with high and 32 persons with secondary education;
- That the security service has 29 employees, everyone with secondary education, and by the systematization of working positions 45 security service posts are planned;
- That the work of security service is organized in two shifts, each lasting 12 hours (7-19h and 19-7h);
- That 6 to 7 officers are working in one shift;
- That service for treatment has one employee and by the systematization of working positions three employment positions are planned in this service;

#### **4.2.3.1. Material conditions in the Prison for short sentences in Podgorica**

##### **4.2.3.1.1. Conditions in rooms / solitary confinements**

###### ***a) Size, capacity and equipment***

Capacity and surface area in collective rooms and solitary confinement is:

- In the closed division, in the room number 3, with 8 beds, of surface 31,40m<sup>2</sup> and space for a toilet within the room, 7 persons were accommodated what makes 4,48m<sup>2</sup> per person and 3.92 m<sup>2</sup> per bed, in room number 12 of surface 31,40m<sup>2</sup>, with 9 beds and a toilet in the room, 5 persons were accommodated what makes 6,28m<sup>2</sup> per person and 3.48 m<sup>2</sup> per bed;
- In the semi-open division, in room number 7 with 10 beds, of surface 31,50m<sup>2</sup> and toilet in the room, 7 persons were accommodated what makes 4,5m<sup>2</sup> per person and 3,15m<sup>2</sup> per bed; on the first floor, room number 18, with 10 beds, of surface 31,5m<sup>2</sup> and he toilet in the room, 8 persons were accommodated what makes 3,93m<sup>2</sup> per person and 3.15 m<sup>2</sup> per bed.

From these data it is evident that in a number of rooms the number of beds is bigger in relation to the surface set forth by national and international standards.

Many of the prisoners have no lockers for personal belongings so they are forced to purchase the same at their own expense or to keep things in plastic bags on the floor. Also the lack of tables and chairs was also notable.

In the institution, not a single room is adapted for persons with disabilities who use wheelchairs, and in time of the visit there was one convicted person who uses a wheelchair.

### ***b) Lighting, ventilation and heating***

In the semi-open and closed divisions the natural and artificial lighting and ventilation are adequate, and the heating system is central.

### ***c) Sanitary conditions***

Toilets are located within the rooms and are neat and clean. Each wing in the semi-open and closed divisions has a bathroom as a separate entity with several cabins, equipped with the necessary sanitary equipment.

#### **4.2.3.2. Right to food and water**

In all divisions prisoners have access to drinking water in all premises they reside.

Three meals a day are provided, according to the menu that changes every fifteen days and that is adapted to the needs of people of different religions. A number of prisoners receive food from home. In the Prison there is no kitchen, but the food is delivered from a central kitchen of the Penal reformatory home Spuž.

In the building there is a dining room with a line where convicted and persons sanctioned for a misdemeanour are engaged.

On the menu there are eight special diets, prescribed by a doctor for prisoners with special medical conditions or needs.

Prisoners are generally satisfied with the quantity and quality of meals

#### **4.2.3.3. Hygiene**

All rooms are painted, clean, dry and hygienically appropriate.

The majority of the prisoners use their own bedding that is mostly clean. There are no conditions for doing the laundry, so the laundry is sent home for washing.

One part of laundry is washed and dried in prison rooms where there are no conditions for these purposes. Things for cleaning and maintenance of rooms are regularly provided by the institution, in sufficient quantities. Prisoners are generally providing things for personal hygiene on their own.

According to the statements, the Administration does not provide in sufficient quantity nor regularly the soap and toilet paper.

#### **4.2.3.4. Right to health care**

A number of convicts informed us that there is a problem with procuring the necessary medicines, so they are forced to purchase them by themselves through the family. They also complained that they waiting in excess for specialist examinations that take place outside the institution.

In order to determine the relevant facts, according to the Decision on the establishing of advisory body to the Protector of Human Rights and Freedoms of Montenegro, an expert for court medicine was hired as the NPM team member.

a) Ambulatory and medical check-ups of prisoners

Medical check-ups of prisoners are performed on Mondays and Fridays, based on applications from the previous day. There are about 15 medical check-ups daily. In the ambulatory a specialist doctor of general medicine is working, and at the same time he is the only doctor in the IEPS. In cases of emergency the doctor is available to prisoners also in other days, during working hours.

Thus, patients who have health problems that require urgent medical examination, are examined immediately in the ambulatory of the Prison for short sentences (the doctor comes into the ambulatory, if it's not Monday and Friday; or patient is transferred to the other ambulatory where the doctor works on that day), but only if the need for medical attention occurred during the working hours. In the case the need for medical attention arose out of working hours of the doctor (during the afternoon, evening, weekends, or holidays), a medical technician will perform an initial first aid, and then the patient will be transported to the Emergency Department of the Clinical Centre of Montenegro, where the medical examination and further possible diagnostic will be performed.

Ambulatory is equipped with a set for bandaging folding, apparatus for measuring blood pressure, bottle with oxygen, anti-shock set, sterilizer, and other utensils. Outside working hours, the ambulance of the prison for short sentences is locked.

Ambulatory of the Remand Prison in Podgorica is available to the prisoners of the Prison for short sentences in case of need for radiological imaging, ultrasound examination, electrocardiogram, determining glucose levels from capillary blood and inhalation. In that ambulatory there is apparatus for laboratory analysis with the test strips, which is not in operation due to the high cost for individual analysis, but laboratory analysis are made at the Health Centre in Danilovgrad or at the Clinical Centre of Montenegro in Podgorica.

On the referral of the doctor of IECS, patients are sent to medical institutions outside the Prison, in the Health Centre in Danilovgrad or Clinical Centre of Montenegro in Podgorica, according to the defined indications. From the interview with the attending doctor in the Prison it can be concluded that the realization of scheduled examinations at the Clinical Centre of Montenegro is not the best, mainly due to lack of vehicles for transport of patients.

After examining data on monthly medical examinations of prisoners of the Prison for short sentences in the year 2012, we learned that the average number of referrals for medical checks out of the IECS, was about 4% (minimum 1.8%, maximum 6.4%). According to that statistics 4 to 5 prisoners monthly are referred for medical checks.

b) Pharmacy

Pharmacy of the ambulance of the Prison for short sentences is supplied with a lot of various antibiotics, analgoantipyretics, general internal medicines and psychiatric medicines. Medicines are in original boxes in the closet, from which they are drawn and placed on partitioned pallet and carried in the rooms to those who need therapy. This pallet consists of about 100 individual partitions, opened; wherein in each individual partition there are approximately 50 tablets. Partitions are opened and marked so that it is clear what medicine is in which partition.

The doctor writes medicine list, and on that basis the medicines are taken from the central pharmacy of IECS. The NPM team notes that there were no cases that prescribe therapy – medicines were not given.

#### c) Keeping medical records

In the ambulatory of the Prison for short sentences the examinations of prisoners the following data are entered in the protocols in a standard way: date, name, diagnosis and therapy. There are three protocols: protocol of injury, protocol of regular examinations and protocol of psychiatric examinations.

Health records are open only for a couple of prisoners who are frequently examined by the doctors or who have had a serious health problem. All health records are inspected.

If the examination of the prisoners is not done in the ambulatory of the Prison for short sentences, but in the ambulatory of the Remand Prison, then such examination is registered in special protocols of that ambulatory made for prisoners of the Prison for short sentences.

#### **4.2.3.5. The right to religious life**

The food in accordance with religious needs is provided, but there are no special facilities for practicing of religion and satisfying religious needs of convicts.

#### **4.2.3.6. Right to walk and recreation**

The prison has a football terrain and the terrain that has a circular sandy path on a grassy area that prisoners use for walks. Benches and protection from atmospheric precipitation and sunshine are set. Under one eave, there is a gym with several flat and inclined benches, a sufficient number of weights and exercise equipment.

According to the testimonies of prisoners, the walk in the open air is provided for a period of 60 minutes, 2 times a day, in the morning and in the afternoon.

#### **4.2.3.7. The right to contact with families and lawyers**

Convicted person receives visits from members of the immediate family, twice a month, for 60 minutes. Visits are made on Saturdays, Sundays, national and religious holidays. Besides regular visits, there is a possibility for emergency visits if there is a justifiable reason, with the approval of an authorized person, once a month, for 30 minutes.

In the room envisaged for the family and lawyer's visits, prisoners are separated from visitors with a divider and can talk directly, six convicts at the same time.

However, it is noted that in these conditions there is no possibility for a confidential conversation with visitors.

Telephone calls can be made to 10 phone numbers in phone booths provided only for that purpose, at certain time periods.

#### **4.2.3.8. House rules**

According to the statements of convicted persons, upon the arrival at the Prison for short sentences, they are duly informed of the rights and obligations that have been established by house rules, and

Rulebook on the execution of imprisonment in IECS, and the Rulebook on House Rules is visibly displayed in premises where the convicts reside

#### **4.2.3.9. Abuse**

According to the testimonies of convicted and persons sanctioned for misdemeanours, the attitude of prison staff towards them is correct and professional.

#### **4.2.3.10. Disciplinary measures**

During 2013 (ending with 31 of July) 25 disciplinary measures of "isolation" have been issued. The disciplinary measures are generally imposed for possession of a mobile phone (closed division).

The procedure is performed properly; a convicted person receives a decision on the disciplinary measure imposed. Also, prescribed medical examination is regularly performed, before execution of this measure.

#### **4.2.3.11. Security**

The facility is secured with internal and external guard security. Video surveillance covers: access to the object itself, access corridors, corridors, as well as access to the sleeping premises, collective premises, and reception premises for persons coming to visit, i.e. all persons entering the building.

#### **4.2.3.12. Working conditions for staff**

Official premises meet the required conditions for the work of the official persons.

#### **4.2.3.13. Conclusions and recommendations**

Considering the state of human rights, the NPM has evaluated the state of the material conditions in the Prison for short sentences in Podgorica, which refers to the accommodation capacities, hygiene, nutrition, health care, heating, lighting, ventilation, sanitation and open space for walks.

They noted excessive number of beds in a number of rooms, so it is necessary to adjust the number of beds in these rooms with the provisions of the Rulebook on the conditions that must be met in facilities for detention of persons deprived of their liberty and the European Prison Rules.

Also, there is no separated room designed for people with disabilities who use wheelchairs, with additional content.

Health care is provided, but the constant presence of doctors is essential.

Starting from the identified state, the Protector as the NPM recommended to the Ministry of Justice and the Institute for the execution of criminal sanctions to:

- Adjust the number of beds to the surface in rooms under the provisions of the Rulebook on the conditions that must be met in facilities for detention of persons deprived of their liberty and the European Prison Rules;
- Make conditions for regular washing and drying of laundry;
- Provide special premises to meet the religious needs of prisoners;

- Provide needed staffing in the security service and the service for treatment in accordance with the established systematization of posts;
- Provide a sufficient number of doctors;
- Provide adequate conditions for persons with disabilities who use wheelchairs (room, toilet, bathroom, etc.).

#### **4.2.4. Penal reformatory Home Spuž**

##### **4.2.4.1. Introduction**

In order to observe the human rights of prisoners, the National mechanism for prevention of torture made a visit of the Penal reformatory home Spuž in November / December 2013. From interviews with the Administration and responses to submitted questionnaires, the following data were obtained:

- The accommodation capacity is 470 persons;
- At the time of visit 610 persons were accommodated;
- The occupancy rate during the visit was 129.78%;
- The accommodation is collective;
- Up to 27 convicts are accommodated in one room;
- Majority of prisoners are convicted for the crime against property and illegal possession and trafficking of narcotic drugs;
- 221 disciplinary measures were issued in the period from 1 January to 20 December 2013;
- In the same period 794 items (mobile phones, chargers and improvised daggers) were seized;
- There were nine cases of self-injury;
- The average age of the convicts is 30 years, the oldest was 75 and the youngest 20;
- The average length of imposed sentence is one to two years of imprisonment, and the longest sentence is 40 years
- There were two collective and 36 individual hunger strikes in 2013;
- total of 208 persons are employed, out of which 17 are with university degree education, 10 with college and 181 employees with secondary education degree;
- Security service has 139 employees, while the systematization envisages 202 posts in security service;
- The work of security service is organized in two shifts, whereby 24 officers per shift for a period of 12 hours (7-19h and 19-7h);
- That treatment service has 18 employees, 14 of them are with the university degree and four with secondary education, while the systematization envisages 29 posts in this service;
- That operation service has 51 employees, out of whom six are with the university degree, four with college degree and 41 with the secondary education.

##### **4.2.4.2. Conditions in rooms / solitary confinements**

###### **4.2.4.2.1. Size, capacity, equipment, lighting, ventilation, hygiene, heating and sanitary conditions.**

The rate of utilization of capacities during the visit, November / December 2013, was 129.78%. Capacity is 470 places whereby 610 convicts were accommodated.

A big number of prisoners use their own bedding, provided by their families. We were informed that they have at their disposal, according to in advance prepared schedule, a laundry room, which is located in the women's division of the Penal reformatory home. It is equipped with adequate equipment

(washing machines and dryers, roller starting board and other accompanying devices). Within the laundry room there is a warehouse for dirty and clean laundry.

#### **a) Pavilion "A"**

In the division for reception, in room number 1 with size of 42m<sup>2</sup> and with 15 beds, 7 persons were accommodated, what makes 6m<sup>2</sup> per person and 2.8 m<sup>2</sup> per bed; in room number 2 of 20m<sup>2</sup>, with 6 beds, 6 persons were accommodated, what makes 3,33m<sup>2</sup> per person and bed;

On the ground floor, right wing, in room number 1 with size of 57m<sup>2</sup>, and with 24 beds, 14 persons were accommodated, what makes 4,07m<sup>2</sup> per person or 2.37 m<sup>2</sup> per bed; in room number 2 of 43,8m<sup>2</sup>, with 14 beds, 9 persons were accommodated, what makes 4,86m<sup>2</sup> per person and 3.12 m<sup>2</sup> per bed;

The ground floor of the left wing, in room number 1 of surface 57m<sup>2</sup>, with 28 beds, were accommodated 26 persons, what makes 2,19m<sup>2</sup> per person and 2.03 m<sup>2</sup> per bed; in room number 2 of 32m<sup>2</sup> with 11 beds, were accommodated 10 persons, what makes 3,2m<sup>2</sup> per person and 2.90 m<sup>2</sup> per bed;

On the ground floor of the pavilion and reception division, the situation in six rooms is worrying, because there is an excessive number of beds in those rooms in regards of the standards of the European Prison Rules, which provide for 4m<sup>2</sup> per person. Because of overcrowding in these rooms the stagnant smell and lack of air circulation was present.

Natural and artificial lighting is adequate.

This pavilion is different from other pavilions in terms of a way of providing heating with individual radiators.

Bathrooms and toilets are renovated, equipped, clean and accessible to prisoners without limitation.

During the visit, the renovation and adaptation of the reception division was underway.

#### **b) Pavilion "B"**

On the ground floor of the right wing in the room number 5 with size of 20m<sup>2</sup> and with 6 beds, 3 persons were accommodated, what makes 6,66m<sup>2</sup> per person and 3.33 m<sup>2</sup> per bed; in room number 9 of 23m<sup>2</sup> with 6 beds, 4 persons were accommodated, what makes 5,75m<sup>2</sup> per person and 3.83 m<sup>2</sup> per bed.

The rooms are neat, painted and clean. Within each room there is a toilet, which is in satisfactory condition. Prisoners have unimpeded access to drinking water. In each wing of the pavilion there is a separate room - dining room with living room, where persons spend their free time.

The natural and artificial lighting is provided in all rooms.

Unlike the pavilion "A", here is the central heating as in other pavilions of Penal reformatory home.

On the ground and first floor in each wing there are fully equipped bathrooms. Hygienic means are provided in sufficient quantities.



### **c) Pavilion "D"**

All rooms in this pavilion have a floor area of 16m<sup>2</sup> with 4 beds and the same number of persons, what makes 4m<sup>2</sup> per person and the bed, counting the space occupied by the toilet.

Rooms in this pavilion are clean, painted and free of moisture. Natural and artificial lighting is provided. However, the lack of adequate ventilation in toilets is noted.

Right and left wing of ground and first floor, have equipped and clean bathrooms.

### **d) Pavilion "C"**

In the room number 7 sized of 28,2m<sup>2</sup>, with 6 beds, 5 persons are accommodated, what makes 6.54m<sup>2</sup> per person and 4.7 m<sup>2</sup> per bed.

In this pavilion are accommodated prisoners, who in admission are classified in III and IV classification group. Toilets make an integral part of the rooms and prisoners have unimpeded access to drinking water.

Prisoners are keeping hygiene in the rooms. Means for hygiene are provided on weekly bases by the administration of the Penal rehabilitation home, in sufficient quantities.

Bathroom is located within the building, as a separate entity.

The windows in the rooms are large enough and provide sufficient penetration of natural light and air circulation.

### **e) Disciplinary division:**

- The disciplinary division has eight rooms, each sized of 9,2m<sup>2</sup>, with toilet. Every solitary confinement unit has a separate area for walking of 19,8 m<sup>2</sup>. Rooms are equipped with a fixed bed, desk and chair.

The lack of fresh air is noticed since the rooms do not have windows, but there are only skylights to the corridor. The artificial ventilation is provided.

Toilets within the solitary cells are supplied with the necessary sanitary equipment and are regularly maintained.

Communication with the security service is done via the intercom, and every solitary cell is covered by video surveillance.

### **f) Pavilion "E"**

Juvenile division is located on the ground floor - room number 5 sized of 25,6m<sup>2</sup> with 4 beds, what makes 6.4 m<sup>2</sup> per bed. None was accommodated at the time of the visit. Toilet is within the room.

An the first floor are accommodated persons convicted of criminal offenses in the field of traffic safety. On this floor in room number 7, sized of 16m<sup>2</sup>, with 4 beds, 4 persons are accommodated, what makes 4m<sup>2</sup> per person and 4 m<sup>2</sup> per bed. Toilet is located within the room.

All prisoners have unimpeded access to drinking water. The rooms are lit by natural and artificial lighting.

Baths as separate units on the ground floor and the first floor are equipped with sanitary equipment.

#### **i) Pavilion "F"**

On the ground floor in the room number 4 with size of 16m<sup>2</sup> and with 6 beds, 6 persons are accommodated, what makes 2,66m<sup>2</sup> per person and 2,66m<sup>2</sup> per bed. Toilet is within room.

On the first floor in room number 8 of 34m<sup>2</sup>, with 10 beds, are accommodated 7 persons, what makes 4,85m<sup>2</sup> per person and 3,4m<sup>2</sup> per bed. Toilet is a part of the room.

Some rooms have excessive number of beds and accommodated persons. Windows allow the sufficient amount of natural light and fresh air.

Bathrooms, as separated units on the ground and first floor, are equipped with adequate sanitary equipment.

#### **j) Semi-open division:**

In the left wing on the ground floor in the room number 2 sized of 31m<sup>2</sup> with 8 beds, 8 persons were accommodated, what makes 3,87m<sup>2</sup> per person and 3,87m<sup>2</sup> per bed. Toilet is located within the room.

At the first floor in the room number 14 of 16m<sup>2</sup>, with five 5 beds, 5 persons were accommodated, what makes 3,2m<sup>2</sup> per person and 3,2m<sup>2</sup> per bed; in the room number 21 of 16m<sup>2</sup> with 5 beds, 5 persons were accommodated, what makes 3,2m<sup>2</sup> per person and 3,2m<sup>2</sup> per bed. Toilets are within the rooms.

In this division are accommodated prisoners classified into the first classification group, and they are engaged with work in internal or external work-sites. Within the division there are secondary buildings - barracks and farms. In the main building of the division the overpopulation is evident.

The rooms are clean, adequately ventilated and the walls are painted. The system of so-called "free door" allows free movement within the main building.

Large windows allow natural light and the artificial light is provided too.

Each wing in the semi-open division has a bathroom as a separate entity with several cabins, equipped with the necessary sanitary equipment.

Convicted persons receive from the Administration a sufficient amount of means for maintenance of a hygiene.

#### **k) Female division:**

This division consists of closed and semi-open division. All rooms are well furnished, neat and clean, naturally lit, ventilated and give the impression of a home atmosphere. Each room has a toilet. The artificial lighting and steam heating is provided.

The living room is adequately furnished with kitchen elements and household appliances.

The bathroom is collective for women convicts from both closed and semi-open division. There are a sufficient number of cabins; it is clean, tidy and available all day. In the bathroom there is a washing machine, for use of women convicts according to the daily schedule. In the women's division there are two rooms of 9m<sup>2</sup> each - solitary confinement for enforcement of disciplinary measure "isolation". The solitary confinement cells are equipped with a fixed bed, a table and a chair and covered by video surveillance.

Communication with the security service is done via the intercom.

#### **4.2.4.2. Right to walks and recreation**

Pavilions "A", "B" and "D" use common area for walking, which is located within the pavilions. In addition to concrete walkways, prisoners can use gym, football and basketball terrain. Benches and shelters for protection from atmospheric precipitation and sunshine are installed. Under one of the marquee, there is a gym with a sufficient number of exercise equipment. From prisoners we learned that the right to a two hour outdoors stay is respected.

Pavilion "C" has a special walking area of 100m<sup>2</sup>, with a concrete path and several sporting equipment

A walking area in the disciplinary division is separate for each solitary confinement cell, it does not include the canopy for protection from atmospheric precipitation and sunshine, or the bench.

Convicts who are under disciplinary measure "isolation" have the possibility to walk, twice a day for one hour.

Pavilion "E" has a particularly large yard with a concrete path, benches, shelters, a gym and a sufficient number of sports equipment.

Pavilion "F" has a courtyard with a concrete path, benches, sheltered gym and a sufficient number of sports equipment.

In the semi-open division there is also a possibility for using sports terrains located behind the building (football terrain and gym). In front of the building there is courtyard for walking, with benches.

Unlike other pavilions, prisoners in this division and other buildings belonging to the semi-open division, have unrestricted all-day access to sports terrains and courtyard.

In the women's division all rooms are exiting in the common courtyard with a concrete walking path and benches.

Within this unit there is a special room which one part is used for visits, and it is equipped with tables and chairs, while in the other part of the room are placed exercise equipment, table for table tennis, which can be used outdoors.

In the disciplinary part of the female division, the walking area is sheltered and secured with video surveillance.

During the interview with the prisoners, who were serving a disciplinary measure, they pointed out that they were enabled to walk twice a day for one hour.

#### **4.2.4.3. The right to conjugal visits**

At the level of the penal reformatory home there are three rooms for conjugal visits. Conditions in these rooms are unsatisfactory, the walls are unpainted and the presence of moisture is evident, beds and closets are worn out.

Within these rooms there is a bathroom with toilet. Heating and cooling are regulated with air conditioning.

#### **4.2.4.4. The right to food and water**

Convicted persons have three meals a day, according to the menu that changes every 15 days, and which is adapted to the needs of persons of different religion. The obligation of the health services is to conduct medical surveillance of hygiene and food safety. The doctor controls the food on daily basis and registers observations in a special book of observations. Hygiene of the premises is controlled on a daily bases, and once a week the general cleaning is done.

The book with the observations and recommendations of the doctor is regularly submitted to the chief, who takes measures to remedy the irregularities.

Convicted persons accommodated in the pavilions "A", "B" and "D" use common dining room, which is located in the central kitchen, alternating by linear system of food distribution.

In other pavilions the food is delivered from the central kitchen in special containers called "manjerke". To a certain number of prisoners the food is delivered by their families.

All prisoners have unlimited access to drinking water at all times.

#### **4.2.4.5. Right to health care**

Some convicts informed us that there is a problem with securing the necessary medicines, so they are forced to purchase them by their own through their families. They also complained on excessive waiting for specialist examinations that are performed outside the institution.

In order to determine the relevant facts, according to the Decision on establishing advisory body to the Protector of Human Rights and Freedoms of Montenegro, an expert of court medicine was hired, as a team member of the NPM.

##### *a) Ambulatory and examinations of prisoners*

In the Penal reformatory home there are five ambulatories, out of which the ambulatory in pavilion "A" provides health care for the pavilions "A", "B", "C" and disciplinary division. The ambulatory in pavilion "D" provides health care for the "D" pavilion. There is also special ambulatory for women's division. Further, there is the ambulatory for "E" and "F" pavilions and division for juveniles, which is part of the "F" pavilion and also the ambulatory for semi-open division. All ambulatories are equipped with standard medical equipment: set for bandaging, device for measuring blood pressure, bottle with oxygen, anti-shock set, sterilizer and other utensils. All equipment is in usable condition, but is quite worn out.

The ambulatories located in the building of the Remand prison in Podgorica are available to prisoners of Penal reformatory home, in case of the need for additional diagnostic and/or therapeutic procedures.

In case of the need examinations of doctors from medical institutions outside the IECS are also available.

In the IECS there are: two doctors, one dentist, one physician and 13 nurses. In addition to full-time employees, three doctors have been engaged on part-time bases as follows: two times a week neuropsychiatry specialist, once a week an internist and radiologist. Working hours of ambulatories is from 7 to 15 h, while the health care out of working hours, as assessed by nurses, is provided in health institutions.

Prisoners of women's division can have gynaecological examinations but in health care institutions outside the IECS.

Upon referral of the IECS, if indicated, patients are sent to medical institutions outside the prison, the Health Centre in Danilovgrad or the Clinical Centre of Montenegro in Podgorica

#### b) *Pharmacy*

Ambulatories' pharmacies are provided with numerous drugs from the group of antibiotics, analgo-antipyretic, general internal and psychiatric drugs. Medications are kept in original boxes in the closet. The drugs are handed out from the palette pre-sorted for daily allowances. The palette consists of about 100 individual partitions, open (in some ambulatories pallets are closed), whereby each individual partition consists of 50 tablets. Partitions are marked so that it is clear in which partition is which medicine, but there are no special partitions for individual therapy.

#### c) *Keeping medical records*

Keeping of medical documentation is not centralized (unique files are not established). Each ambulatory has its own protocol. Patients can be examined in various ambulatories, so the medical records of prisoners can be kept also out of the ambulance of their respective pavilions.

During several days of hunger strike in the first quarter of 2013, all prisoners were enrolled in a separate protocol. Due to the large number of strike participants, medical examinations were carried out only in individual cases.

#### **4.2.4.6. The right to contact with their families and lawyers**

Prisoners are entitled to regular visits of the families twice a month for a period of 1 hour and an extraordinary visit for a half hour.

Pavilions "A", "B", "C", "D" and disciplinary division, are sharing the visiting premise, which is located within the administrative building of Penal reformatory home. The room is equipped with benches and a joint table along entire common room, which divides it in half and separates visitors from prisoners.

Pavilions "E" and "F" are sharing the visiting premise which is equipped with necessary furniture and covered by video surveillance. The prisoners are separated from visitors with a barrier but can talk directly.

Woman department has a special visiting room, equipped with two tables and few chairs.

As part of the administrative building there is a special room meant for visiting prisoners in semi-open division. It is equipped with a number of tables and chairs, where convicts directly communicate with visitors. During the summer period, the outdoor space is used for receiving visits.

Convicted persons may make telephone calls to 10 numbers, via telephone booths installed for this purpose, in envisaged time periods with the possibility of dialling numbers even abroad.

#### **4.2.4.7. Service for treatment**

Within the Penal reformatory home there is the service for the treatment of prisoners, with employed psychologists, special educators, graduate lawyers and other persons. The service is mainly engaged in individual conversation with prisoners and rarely in group one. The treatment is carried out through individual work according to the needs of individual convicts. A convict is directed to change attitude, strengthen morale, flexibility and acts in accordance with socially acceptable norms.

Institute has no space or personnel for organizing education processes in the institution, because there is no authority for the provision of these types of treatments.

The number of implementers of the treatment or "professors", as prisoners call them, is insufficient. One "professor" covers 100 or more prisoners.

#### **4.2.4.8. Right to work**

Working engagement of prisoners is carried out in accordance with the working capacity of the Institute and the mental and physical characteristics, skills and affinities of the convict to a particular job. 188 prisoners are engaged in work, 10 of which are women. Working equipment is quite worn out.

There is a great interest of prisoners for work engagement. In addition to occupational therapy thus they earn some funds for personal needs.

#### **4.2.4.9. The right to religious life**

All prisoners have the right to religious life. This right is exercised without any special procedures. However, there are no specially designed premises for practicing religious rituals, but the dining room of the central kitchens and other available premises are used for this purpose.

Members of the Islamic religion are provided with a diet in accordance with their religious needs.

#### **4.2.4.10. Using of the library**

In every organizational entity there is a branch of the prison library, with a smaller number of books. Libraries are provided with the literature in multiple languages and each contains from 1500 - 2000 pieces, mostly of old editions. Library in the women's division is the best provided and also has a computer.

#### **4.2.4.11. House rules**

According to the statements of prisoners, on admission to the reception division, they get introduced with the rights and obligations provided by the Rulebook on the manner of execution of imprisonment sentences of in IECS.

#### **4.2.4.12. Abuse**

According to information obtained from the management of Penal reformatory home, there were no cases of use of coercion, and prisoners had no objections to the treatment of officers toward them, but they rate it as fair and professional.

#### **4.2.4.13. Disciplinary measures**

Disciplinary measure "isolation" is generally imposed for possession and use of a mobile phone. A total of 221 disciplinary measures of isolation were imposed for the reporting period.

The procedure is performed correctly, the convict is provided with a decision on imposition of a disciplinary measure. Also, prescribed medical examination is regularly performed, and in some cases, due to health reasons of a prisoner, a decision on imposition of disciplinary measure is not executed.

#### **4.2.4.14. Safety**

All objects are secured with internal and external security guard. In all pavilions, interior common premises are covered by video surveillance, as well as receiving premises for persons coming to visit, i.e. persons entering in the closed division of the Penal reformatory home, access areas of the premises of women's division, of the pavilions "E" and "F", as well as the semi – open division.

The exception is the pavilion "A", as follows: access to the object itself, access corridors, corridors, living rooms and access to the sleeping premises are not covered by video surveillance.

#### **4.2.4.15. Working conditions and training for staff**

Working conditions in the official premises meet the minimum conditions necessary for the work. The institution drafted the training program for staff, as follows: initial, additional and specialist training.

#### **4.2.4.16. Conclusions and recommendations**

After monitoring the respect of human rights, the National Mechanism for Prevention of Torture made the assessment of the state of the material and other conditions in the Penal reformatory home Spuž, in terms of: accommodation, hygiene, nutrition, health care, lighting, ventilation, heating, sanitary conditions and open space for walking.

The lack of space and overcrowdings are the issues of concern and needs to be resolved in the foreseeable future. This problem is particularly pronounced in the Pavilion "A", and is evident also in the pavilions "B", "F" and the main building of the semi-open division, although authorities take measures to alleviate overcrowding.

NPM indicates inadequate conditions in the premises for conjugal visits.

Material conditions in the part of the Institute are still not aligned with the standards.

Also, an insufficient number of employees is affecting the work process and the overall conditions.

Starting from the identified condition, the Protector as the NPM recommended to the Ministry of Justice and the Institute for execution of criminal sanctions to:

- adjust the number of beds to the surface of the respective rooms under the provisions of the Rulebook on the conditions that must be met in facilities for detention of persons deprived of their liberty and the European Prison Rules;
- provide separate facilities for practicing religion;
- adapt and adequately equip facilities for conjugal visits;
- hire necessary staff in the health service in accordance with established systematization;
- hire necessary staff in the security service in accordance with established systematization;
- increase the number of staff dealing with the treatment in sector for treatment and re-socialization of prisoners in accordance with established systematization;
- introduce shift work for medical doctors;
- provide centralization and electronic management of medical records for all prisoners;
- provide central heating in the pavilion "A";
- ensure adequate ventilation of toilets in the pavilion "D";
- set up shelters for protection from the sun and atmospheric precipitation in the women's department, pavilion "C" and the disciplinary department;
- provide adequate ventilation in solitary confinement for enforcement of disciplinary measures.

#### **4.2.5. Follow-up visit to the Remand prison in Podgorica**

##### **4.2.5.1. Introductory Remarks**

In December 2012, the Protector of Human Rights and Freedoms as the NPM has monitored the exercise of human rights of detainees, the accommodation and other conditions in the Remand Prison in Podgorica and compiled the Special Report in which, for the Ministry of Justice and the Institute for Execution of Criminal Sanctions, he made 31 recommendations for improving the conditions.

In December 2013, a follow-up visit was carried out in order to assess the level of compliance with the given recommendations.

##### **4.2.5.2. Founded state:**

a) During the follow-up visit the following recommendations were fulfilled:

- necessary furniture is provided, as well as the required amount of bedding, mattresses, pillows and adequate number of sockets;
- conditions for the accommodation of prisoners with disabilities are provided (toilets, etc.);
- adequate artificial lighting in the rooms, which allows prisoners to read, as well as sanitary facilities are provided;
- adequate ventilation of sanitary premises is provided;
- functional and adequate seasonal heating of rooms and sanitary confinement is provided;
- in the bathrooms adequate artificial lighting, ventilation and seasonal heating is provided;
- in the bathrooms all necessary hygienic conditions are provided;
- bathroom adapted for disabled people (who use wheelchairs) is provided;
- the quality of cooked food is improved;
- premises for the distribution of food are regularly painted, hygiene is maintained and worn-out inventory is regularly replaced;
- hygienic delivery of bread is provided;
- adequate food in accordance with religious beliefs is provided;
- a hygiene package in accordance with the Rulebook on the manner of execution of detention for all detainees who have this need is provided;



- dental record about given anaesthesia is kept;
- detainees – patients are prescribed and provided with appropriate diet in accordance to the established diagnosis;
- healthy living conditions are provided in the prison hospital;
- on the received cash payment the recipient is immediately notify, pursuant to section 47 of the Rulebook on the manner of execution of detention;
- room – reception number 2 is adequately equipped.

b) Following recommendations were partially fulfilled:

- the number of staff is increased, but is still not in compliance with the established systematization of health services;
- work and other activities for detainees in accordance with the Rulebook on manner of execution of detention are partially organized.

c) The Protector as the NPM finds that the IECS made significant efforts to meet the recommendations in a short period from the visit. From a total number of 31 recommendations 18 are fulfilled completely, two are partially fulfilled and 11 recommendations have not been met.

Therefore Protector recalls the unfulfilled recommendations and the need to:

- adjust the number of beds to the surface of the respective rooms and solitary confinement cells according to the European Prison Rules and the provisions of the Rulebook on manner of execution of detention;
- provide a consistent application of the Rulebook on manner of execution of detention or its amendment, in order to create appropriate conditions for detainees to prepare food by themselves;
- provide adequate hygiene conditions for healthy life in all rooms and solitary confinement cells (isolation from water and moisture);
- provide for regular washing and drying of laundry;
- provide separate facilities for practicing religion and to meeting religious needs of detainees;
- introduce daily records of medical treatment;
- introduce special records for specialist examinations scheduled at Clinical Centre of Montenegro, which will include information on the realization and the circumstances and reasons for possible postponement;
- examine the possible adverse effects of ionizing radiation on the health of detainees, which is broadcasted by mobile telephony signal jammers;
- provide prescribed duration of outdoors walking for all detainees, for at least two hours a day, at appropriate intervals;
- provide adequate conditions for confidential communication of detainees with lawyers;
- hand over a copy of the house rules to all detainees in a language they understand, upon receipt in the Remand Prison.

#### **4.2.6. Follow-up visit to the Special Hospital for Psychiatry Dobrota - Kotor**

The Protector of Human Rights and Freedoms of Montenegro in 2011 has assessed the state of human rights within its competence, in the Special Hospital for Psychiatry in Dobrota - Kotor and the institutions where are placed mentally ill persons and children with disabilities in mental development. Starting from the current situation in these institutions and the need for a broader approach to the problems and need for the intervention of the competent authority, the Protector compiled a Special Report on the human

rights of mentally ill persons placed in institutions, which was adopted in the Parliament of Montenegro in July 2011.

During the reporting period (22-24 January 2013) the follow-up visit was planned and carried to the Special Hospital for Psychiatry in Dobrota - Kotor. The aim of the follow-up visit to this Institution is to monitor and evaluate the level of compliance with the recommendations of the Protector, given in the Special Report.

During the follow-up visit it was found that two recommendations, within the competency of the NPM, have not yet been fulfilled. Recommendations were given to the Ministry of Health, the Ministry of Justice and the Health Institution Special Hospital for Psychiatry in Dobrota, and were related to the assessment of the justification of excessive stay of patients at socio-rehabilitation department and to the relocation of the court department.

We recall that in the Special Report it was concluded: that appropriate mechanisms should be established to guarantee the most appropriate treatment of patients who are at the same time psychiatric patients, socially vulnerable and without family support. Their inappropriate and unnecessarily long stay in this institution (10, 20 or even 54 years) is not acceptable. They do not need intensive hospital treatment, but other sources of help and social protection. Also, that the formation of special services, counselling centres, mental ambulatories, day care centres and the similar, would be a good way to provide the necessary care for these persons.

Science in this field indicates that people who have problems with mental health, recover better if they live in communities and participate in social relationships with families and friends, than those who are hospitalized in psychiatric institutions.

In relation to the recommendation for separation of judicial department from the Hospital, the Protector recalls that in all neighbouring countries this department is separated from neuropsychiatric hospital and is placed in prison institutions.

#### **4.2.7. National and international activities of the NPM**

On 13 February 2013, the Protector and his associates received the delegation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), led by Ms. Haritini Dipla, Acting First Vice-President of the Committee, at the premises of the Institution. On that occasion he introduced the delegation of the CPT with the legislative framework for the prevention of torture and activities that preceded the establishment of the NPM.

Representatives of the Protector as a National Mechanism for Prevention of Torture attended the meeting of representatives of NPMs of Albania, Croatia, Macedonia, Montenegro, Serbia, Slovenia and Bosnia and Herzegovina as an observer, which was held on 25-26 March 2013 in Belgrade, organized by the Protector of citizens and the OSCE Mission to Serbia. On that occasion Joint Declaration on cooperation of NPM Network of South-eastern Europe was made, and its text is integrally provided in the appendix of this Report.

In organization of the OSCE Mission to Montenegro the study visit of the NPM of Montenegro to the Ombudsman of Spain was realised in period from 08-11 May 2013 in Madrid. The aim of the study visit was exchange of experience of two NPMs, as well as a joint visit to one of the institutions under the competence of the NPM of Spain, in Madrid.

European Movement of Montenegro with the support of the European Union, the Government of Montenegro, the Ministry of Foreign Affairs of the Slovak Republic, organized two-day conference on the subject: the Role of Protector of Human Rights and Freedoms of Montenegro as a National Mechanism for Prevention of Torture for the protection of persons deprived of their liberty from torture and other cruel, inhuman or degrading treatment or punishment, within the Chapter 23 - Judiciary and Fundamental Rights, which was held on 5-6 June 2013 in Podgorica.

On the occasion of the Day against Torture, in organization of the Ombudsman of the Republic of Macedonia, and with the support of the European Commission, on 25 and 26 June 2013 in Skopje was organized a regional conference attended by the representatives of NPM Network of South-eastern Europe. At the conference it was particularly emphasized that the network connection is imperative for defining and setting the standards of regional NPM.

In cooperation with the OSCE Mission to Serbia and the Protector of the Citizens of the Republic of Serbia it was organized the first meeting of the Medical Group of NPM Network of South-eastern Europe, held on 24 and 25 October 2013 in Belgrade, on the subject "The role of doctors in the work of the NPM". The conference resulted with the Bulletin entitled "Together against torture", which presented positive and negative experiences in the work of the NPMs of different countries, what makes a significant help in the development of these mechanisms.

## **Annex I**

### **DECLARATION ON COOPERATION SOUTH-EAST EUROPE NPM NETWORK**

1. Having in mind the need for establishing stronger cooperation and building on the fruitful experience of the European NPM Network set up by the Council of Europe and the European Union, National Prevention Mechanisms of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (NPM) of Albania, Croatia, Macedonia, Montenegro, Slovenia and Serbia, at the meeting held on 25th and 26th March 2013 in Belgrade, agreed to establish a regional NPM Network for South-East Europe (SEE).
2. The name of the Network is "South-East Europe NPM Network" (SEE NPM Network).
3. The main purpose of the SEE NPM Network is to establish greater cooperation and to exchange experiences, to create synergy between members, to provide support and to create conditions for effective fulfilment of the NPM mandate specified in the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).
4. Cooperation within the SEE NPM Network is voluntary.
5. Membership in the SEE NPM Network is open for accession to all NPMs of SEE States parties of the OPCAT.
6. The SEE NPM Network is open for cooperation with organizations and associations that aim to protect human rights and to fight against torture.
7. The SEE NPM Network will specifically establish cooperation with the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and other relevant international bodies.
8. Cooperation within the SEE NPM Network will be developed through regular annual meetings, thematic meetings, joint visits to places of detention, and sharing of knowledge, relevant documents and other information.
9. The SEE NPM Network may create working groups for specific issues (e.g. jurisprudence, health care etc.)

10. The SEE NPM Network may establish a list of experts in the field of torture prevention.
11. The SEE NPM Network will support newly established NPMs, by sharing methodologies, knowledge and experience.
12. All decisions are made by common agreement.
13. Members of the SEE NPM Network shall agree which NPM will chair the SEE NPM Network for a period of one year.
14. The Chairperson of the SEE NPM Network, or another member designated by him, shall represent the SEE NPM Network.
15. Each member shall bear its own costs for participation in activities of the SEE NPM Network.
16. The SEE NPM Network can obtain funds for financing activities by external entities.
17. This Declaration is made in the English language and all the other languages of members of the SEE NPM Network.

Agreeing parties:

NPM Albania, Andi Bala

NPM Montenegro, Petar Ivezić

NPM Croatia, Ira Bedrač

NPM Macedonia, Anica Tomšić-Stojkowska

NPM Slovenia, Ivan Šelih

NPM Serbia, Miloš Janković

Also agreeing:

Ombudsmen BiH, Ljubomir Sandić

## **Annex II**

THE LAW ON RATIFICATION OF OPTIONAL PROTOCOL TO THE UN THE CONVENTION  
AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR  
PUNISHMENT

### **DECREE**

**ON PROMULGATION OF THE LAW ON RATIFICATION OF THE OPTIONAL PROTOCOL TO THE  
CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING  
TREATMENT OR PUNISHMENT**

I promulgate the **Law on Ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**, adopted by the 23 convocation of the Parliament of Montenegro, at the seventh session of the second regular sitting in 2008, on 17 December 2008.

The President of Montenegro, **Filip Vujanovic**

**THE LAW ON RATIFICATION OF  
OF THE OPTIONAL PROTOCOL TO THE CONVENTION AGAINST TORTURE AND OTHER  
CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT**

### **Article 1**

The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading

Treatment or Punishment, done at New York on 18 December 2002 and in the original on Arabic, Chinese, English, French, Russian and Spanish languages is hereby ratified.

## **Article 2**

The text of the Protocol referred to in Article 1 of this Law, in the original in English language and in translation into Montenegrin language reads as follows:

### **Opcioni protokol uz Konvenciju protiv torture i drugih surovih, neljudskih ili ponižavajućih kazni ili postupaka**

#### **PREAMBLE**

The States Parties to the present Protocol,

Reaffirming that torture and other cruel, inhuman or degrading treatment or punishment are prohibited and constitute serious violations of human rights,

Convinced that further measures are necessary to achieve the purposes of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter referred to as the Convention) and to strengthen the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment,

Recalling that articles 2 and 16 of the Convention oblige each State Party to take effective measures to prevent acts of torture and other cruel, inhuman or degrading treatment or punishment in any territory under its jurisdiction,

Recognizing that States have the primary responsibility for implementing those articles, that strengthening the protection of people deprived of their liberty and the full respect for their human rights is a common responsibility shared by all and that international implementing bodies complement and strengthen national measures,

Recalling that the effective prevention of torture and other cruel, inhuman or degrading treatment or punishment requires education and a combination of various legislative, administrative, judicial and other measures,

Recalling also that the World Conference on Human Rights firmly declared that efforts to eradicate torture should first and foremost be concentrated on prevention and called for the adoption of an optional protocol to the Convention, intended to establish a preventive system of regular visits to places of detention,

Convinced that the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment can be strengthened by non-judicial means of a preventive nature, based on regular visits to places of detention,

Have agreed as follows:

## **PART I**

### **General principles**

#### **Article 1**

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.

#### **Article 2**

1. A Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of the Committee against Torture (hereinafter referred to as the Subcommittee on Prevention) shall be established and shall carry out the functions laid down in the present Protocol.
2. The Subcommittee on Prevention shall carry out its work within the framework of the Charter of the United Nations and shall be guided by the purposes and principles thereof, as well as the norms of the United Nations concerning the treatment of people deprived of their liberty.
3. Equally, the Subcommittee on Prevention shall be guided by the principles of confidentiality, impartiality, non-selectivity, universality and objectivity.
4. The Subcommittee on Prevention and the States Parties shall cooperate in the implementation of the present Protocol.

#### **Article 3**

Each State Party shall set up, designate or maintain at the domestic level one or several visiting bodies for the prevention of torture and other cruel, inhuman or degrading treatment or punishment (hereinafter referred to as the national preventive mechanism).

#### **Article 4**

1. Each State Party shall allow visits, in accordance with the present Protocol, by the mechanisms referred to in articles 2 and 3 to any place under its jurisdiction and control where persons are or may be deprived of their liberty, either by virtue of an order given by a public authority or at its instigation or with its consent or acquiescence (hereinafter referred to as places of detention). These visits shall be undertaken with a view to strengthening, if necessary, the protection of these persons against torture and other cruel, inhuman or degrading treatment or punishment.
2. For the purposes of the present Protocol, deprivation of liberty means any form of detention or imprisonment or the placement of a person in a public or private custodial setting which that person is not permitted to leave at will by order of any judicial, administrative or other authority

## **PART II**

### **Subcommittee on Prevention**

#### **Article 5**

1. The Subcommittee on Prevention shall consist of ten members. After the fiftieth ratification of or accession to the present Protocol, the number of the members of the Subcommittee on Prevention shall increase to twenty-five.
2. The members of the Subcommittee on Prevention shall be chosen from among persons of high moral character, having proven professional experience in the field of the administration of justice, in particular criminal law, prison or police administration, or in the various fields relevant to the treatment of persons deprived of their liberty.
3. In the composition of the Subcommittee on Prevention due consideration shall be given to equitable geographic distribution and to the representation of different forms of civilization and legal systems of the States Parties.
4. In this composition consideration shall also be given to balanced gender representation on the basis of the principles of equality and non-discrimination.
5. No two members of the Subcommittee on Prevention may be nationals of the same State.
6. The members of the Subcommittee on Prevention shall serve in their individual capacity, shall be independent and impartial and shall be available to serve the Subcommittee on Prevention efficiently.

#### **Article 6**

1. Each State Party may nominate, in accordance with paragraph 2 of the present article, up to two candidates possessing the qualifications and meeting the requirements set out in article 5, and in doing so shall provide detailed information on the qualifications of the nominees.
2. (a) The nominees shall have the nationality of a State Party to the present Protocol;  
(b) At least one of the two candidates shall have the nationality of the nominating State Party;  
(c) No more than two nationals of a State Party shall be nominated;  
(d) Before a State Party nominates a national of another State Party, it shall seek and obtain the consent of that State Party.
3. At least five months before the date of the meeting of the States Parties during which the elections will be held, the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within three months. The Secretary-General shall submit a list, in alphabetical order, of all persons thus nominated, indicating the States Parties that have nominated them.

#### **Article 7**

1. The members of the Subcommittee on Prevention shall be elected in the following manner:
  - (a) Primary consideration shall be given to the fulfilment of the requirements and criteria of article 5 of the present Protocol;

- (b) The initial election shall be held no later than six months after the entry into force of the present Protocol;
- (c) The States Parties shall elect the members of the Subcommittee on Prevention by secret ballot;
- (d) Elections of the members of the Subcommittee on Prevention shall be held at biennial meetings of the States Parties convened by the Secretary-General of the United Nations. At those meetings, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Subcommittee on Prevention shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of the States Parties present and voting.

2. If during the election process two nationals of a State Party have become eligible to serve as members of the Subcommittee on Prevention, the candidate receiving the higher number of votes shall serve as the member of the Subcommittee on Prevention. Where nationals have received the same number of votes, the following procedure applies:

- (a) Where only one has been nominated by the State Party of which he or she is a national, that national shall serve as the member of the Subcommittee on Prevention;
- (b) Where both candidates have been nominated by the State Party of which they are nationals, a separate vote by secret ballot shall be held to determine which national shall become the member;
- (c) Where neither candidate has been nominated by the State Party of which he or she is a national, a separate vote by secret ballot shall be held to determine which candidate shall be the member.

#### **Article 8**

If a member of the Subcommittee on Prevention dies or resigns, or for any cause can no longer perform his or her duties, the State Party that nominated the member shall nominate another eligible person possessing the qualifications and meeting the requirements set out in article 5, taking into account the need for a proper balance among the various fields of competence, to serve until the next meeting of the States Parties, subject to the approval of the majority of the States Parties. The approval shall be considered given unless half or more of the States Parties respond negatively within six weeks after having been informed by the Secretary-General of the United Nations of the proposed appointment.

#### **Article 9**

The members of the Subcommittee on Prevention shall be elected for a term of four years. They shall be eligible for re-election once if renominated. The term of half the members elected at the first election shall expire at the end of two years; immediately after the first election the names of those members shall be chosen by lot by the Chairman of the meeting referred to in article 7, paragraph 1 (d).

#### **Article 10**

1. The Subcommittee on Prevention shall elect its officers for a term of two years. They may be reelected.
2. The Subcommittee on Prevention shall establish its own rules of procedure. These rules shall provide, inter alia, that:
  - (a) Half the members plus one shall constitute a quorum;
  - (b) Decisions of the Subcommittee on Prevention shall be made by a majority vote of the members present;
  - (c) The Subcommittee on Prevention shall meet in camera.



3. The Secretary-General of the United Nations shall convene the initial meeting of the Subcommittee on Prevention. After its initial meeting, the Subcommittee on Prevention shall meet at such times as shall be provided by its rules of procedure. The Subcommittee on Prevention and the Committee against Torture shall hold their sessions simultaneously at least once a year.

### **PART III**

#### **Mandate of the Subcommittee on Prevention**

##### **Article 11**

The Subcommittee on Prevention shall:

- a) Visit the places referred to in article 4 and make recommendations to States Parties concerning the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment;
- b) In regard to the national preventive mechanisms:
  - (i) Advise and assist States Parties, when necessary, in their establishment;
  - (ii) Maintain direct, and if necessary confidential, contact with the national preventive mechanisms and offer them training and technical assistance with a view to strengthening their capacities;
  - (iii) Advise and assist them in the evaluation of the needs and the means necessary to strengthen the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment;
  - (iv) Make recommendations and observations to the States Parties with a view to strengthening the capacity and the mandate of the national preventive mechanisms for the prevention of torture and other cruel, inhuman or degrading treatment or punishment;
- c) Cooperate, for the prevention of torture in general, with the relevant United Nations organs and mechanisms as well as with the international, regional and national institutions or organizations working towards the strengthening of the protection of all persons against torture and other cruel, inhuman or degrading treatment or punishment.

##### **Article 12**

In order to enable the Subcommittee on Prevention to comply with its mandate as laid down in article 11, the States Parties undertake:

- (a) To receive the Subcommittee on Prevention in their territory and grant it access to the places of detention as defined in article 4 of the present Protocol;
- (b) To provide all relevant information the Subcommittee on Prevention may request to evaluate the needs and measures that should be adopted to strengthen the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment;
- (c) To encourage and facilitate contacts between the Subcommittee on Prevention and the national preventive mechanisms;
- (d) To examine the recommendations of the Subcommittee on Prevention and enter into dialogue with it on possible implementation measures.

##### **Article 13**

1. The Subcommittee on Prevention shall establish, at first by lot, a programme of regular visits to the States Parties in order to fulfil its mandate as established in article 11.

2. After consultations, the Subcommittee on Prevention shall notify the States Parties of its programme in order that they may, without delay, make the necessary practical arrangements for the visits to be conducted.
3. The visits shall be conducted by at least two members of the Subcommittee on Prevention. These members may be accompanied, if needed, by experts of demonstrated professional experience and knowledge in the fields covered by the present Protocol who shall be selected from a roster of experts prepared on the basis of proposals made by the States Parties, the Office of the United Nations High Commissioner for Human Rights and the United Nations Centre for International Crime Prevention. In preparing the roster, the States Parties concerned shall propose no more than five national experts.
4. The State Party concerned may oppose the inclusion of a specific expert in the visit, whereupon the Subcommittee on Prevention shall propose another expert.
5. If the Subcommittee on Prevention considers it appropriate, it may propose a short follow-up visit after a regular visit.

#### **Article 14**

1. In order to enable the Subcommittee on Prevention to fulfil its mandate, the States Parties to the present Protocol undertake to grant it:
  - (a) Unrestricted access to all information concerning the number of persons deprived of their liberty in places of detention as defined in article 4, as well as the number of places and their location;
  - (b) Unrestricted access to all information referring to the treatment of those persons as well as their conditions of detention;
  - (c) Subject to paragraph 2 below, unrestricted access to all places of detention and their installations and facilities;
  - (d) The opportunity to have private interviews with the persons deprived of their liberty without witnesses, either personally or with a translator if deemed necessary, as well as with any other person who the Subcommittee on Prevention believes may supply relevant information;
  - (e) The liberty to choose the places it wants to visit and the persons it wants to interview.
2. Objection to a visit to a particular place of detention may be made only on urgent and compelling grounds of national defence, public safety, natural disaster or serious disorder in the place to be visited that temporarily prevent the carrying out of such a visit. The existence of a declared state of emergency as such shall not be invoked by a State Party as a reason to object to a visit.

#### **Article 15**

No authority or official shall order, apply, permit or tolerate any sanction against any person or organization for having communicated to the Subcommittee on Prevention or to its delegates any information, whether true or false, and no such person or organization shall be otherwise prejudiced in any way.

#### **Article 16**

1. The Subcommittee on Prevention shall communicate its recommendations and observations confidentially to the State Party and, if relevant, to the national preventive mechanism.
2. The Subcommittee on Prevention shall publish its report, together with any comments of the State Party concerned, whenever requested to do so by that State Party. If the State Party makes part of the report public, the Subcommittee on Prevention may publish the report in whole or in part. However, no personal data shall be published without the express consent of the person concerned.
3. The Subcommittee on Prevention shall present a public annual report on its activities to the Committee against Torture.

4. If the State Party refuses to cooperate with the Subcommittee on Prevention according to articles 12 and 14, or to take steps to improve the situation in the light of the recommendations of the Subcommittee on Prevention, the Committee against Torture may, at the request of the Subcommittee on Prevention, decide, by a majority of its members, after the State Party has had an opportunity to make its views known, to make a public statement on the matter or to publish the report of the Subcommittee on Prevention.

## **PART IV**

### **National preventive mechanisms**

#### **Article 17**

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.

#### **Article 18**

1. The States Parties shall guarantee the functional independence of the national preventive mechanisms as well as the independence of their personnel.
2. The States Parties shall take the necessary measures to ensure that the experts of the national preventive mechanism have the required capabilities and professional knowledge. They shall strive for a gender balance and the adequate representation of ethnic and minority groups in the country.
3. The States Parties undertake to make available the necessary resources for the functioning of the national preventive mechanisms.
4. When establishing national preventive mechanisms, States Parties shall give due consideration to the Principles relating to the status of national institutions for the promotion and protection of human rights.

#### **Article 19**

The national preventive mechanisms shall be granted at a minimum the power:

- a) To regularly examine the treatment of the persons deprived of their liberty in places of detention as defined in article 4, with a view to strengthening, if necessary, their protection against torture and other cruel, inhuman or degrading treatment or punishment;
- b) To make recommendations to the relevant authorities with the aim of improving the treatment and the conditions of the persons deprived of their liberty and to prevent torture and other cruel, inhuman or degrading treatment or punishment, taking into consideration the relevant norms of the United Nations;
- c) To submit proposals and observations concerning existing or draft legislation.

#### **Article 20**

In order to enable the national preventive mechanisms to fulfil their mandate, the States Parties to the present Protocol undertake to grant them:

- a) Access to all information concerning the number of persons deprived of their liberty in places of detention as defined in article 4, as well as the number of places and their location;

- b) Access to all information referring to the treatment of those persons as well as their conditions of detention;
- c) Access to all places of detention and their installations and facilities;
- d) The opportunity to have private interviews with the persons deprived of their liberty without witnesses, either personally or with a translator if deemed necessary, as well as with any other person who the national preventive mechanism believes may supply relevant information;
- e) The liberty to choose the places they want to visit and the persons they want to interview;
- f) The right to have contacts with the Subcommittee on Prevention, to send it information and to meet with it.

#### **Article 21**

1. No authority or official shall order, apply, permit or tolerate any sanction against any person or organization for having communicated to the national preventive mechanism any information, whether true or false, and no such person or organization shall be otherwise prejudiced in any way.
2. Confidential information collected by the national preventive mechanism shall be privileged. No personal data shall be published without the express consent of the person concerned.

#### **Article 22**

The competent authorities of the State Party concerned shall examine the recommendations of the national preventive mechanism and enter into a dialogue with it on possible implementation measures.

#### **Article 23**

The States Parties to the present Protocol undertake to publish and disseminate the annual reports of the national preventive mechanisms.

### **PART V**

#### **Declaration**

#### **Article 24**

1. Upon ratification, States Parties may make a declaration postponing the implementation of their obligations under either part III or part IV of the present Protocol.
2. This postponement shall be valid for a maximum of three years. After due representations made by the State Party and after consultation with the Subcommittee on Prevention, the Committee against Torture may extend that period for an additional two years.

### **PART VI**

#### **Financial provisions**

#### **Article 25**

1. The expenditure incurred by the Subcommittee on Prevention in the implementation of the present Protocol shall be borne by the United Nations.
2. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Subcommittee on Prevention under the present Protocol.

## **Article 26**

1. A Special Fund shall be set up in accordance with the relevant procedures of the General Assembly, to be administered in accordance with the financial regulations and rules of the United Nations, to help finance the implementation of the recommendations made by the Subcommittee on Prevention after a visit to a State Party, as well as education programmes of the national preventive mechanisms.
2. The Special Fund may be financed through voluntary contributions made by Governments, intergovernmental and non-governmental organizations and other private or public entities.

## **PART VII**

### **Final provisions**

#### **Article 27**

1. The present Protocol is open for signature by any State that has signed the Convention.
2. The present Protocol is subject to ratification by any State that has ratified or acceded to the Convention. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
3. The present Protocol shall be open to accession by any State that has ratified or acceded to the Convention.
4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.
5. The Secretary-General of the United Nations shall inform all States that have signed the present Protocol or acceded to it of the deposit of each instrument of ratification or accession.

#### **Article 28**

1. The present Protocol shall enter into force on the thirtieth day after the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.
2. For each State ratifying the present Protocol or acceding to it after the deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession, the present Protocol shall enter into force on the thirtieth day after the date of deposit of its own instrument of ratification or accession.

#### **Article 29**

The provisions of the present Protocol shall extend to all parts of federal States without any limitations or exceptions.

#### **Article 30**

No reservations shall be made to the present Protocol.

#### **Article 31**

The provisions of the present Protocol shall not affect the obligations of States Parties under any regional convention instituting a system of visits to places of detention. The Subcommittee on Prevention and the bodies established under such regional conventions are encouraged to consult and

cooperate with a view to avoiding duplication and promoting effectively the objectives of the present Protocol.

### **Article 32**

The provisions of the present Protocol shall not affect the obligations of States Parties to the four Geneva Conventions of 12 August 1949 and the Additional Protocols thereto of 8 June 1977, nor the opportunity available to any State Party to authorize the International Committee of the Red Cross to visit places of detention in situations not covered by international humanitarian law.

### **Article 33**

1. Any State Party may denounce the present Protocol at any time by written notification addressed to the Secretary-General of the United Nations, who shall thereafter inform the other States Parties to the present Protocol and the Convention. Denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General.
2. Such a denunciation shall not have the effect of releasing the State Party from its obligations under the present Protocol in regard to any act or situation that may occur prior to the date on which the denunciation becomes effective, or to the actions that the Subcommittee on Prevention has decided or may decide to take with respect to the State Party concerned, nor shall denunciation prejudice in any way the continued consideration of any matter already under consideration by the Subcommittee on Prevention prior to the date on which the denunciation becomes effective.
3. Following the date on which the denunciation of the State Party becomes effective, the Subcommittee on Prevention shall not commence consideration of any new matter regarding that State.

### **Article 34**

1. Any State Party to the present Protocol may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to the States Parties to the present Protocol with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposal. In the event that within four months from the date of such communication at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of two thirds of the States Parties present and voting at the conference shall be submitted by the Secretary-General of the United Nations to all States Parties for acceptance.
2. An amendment adopted in accordance with paragraph 1 of the present article shall come into force when it has been accepted by a two-thirds majority of the States Parties to the present Protocol in accordance with their respective constitutional processes.
3. When amendments come into force, they shall be binding on those States Parties that have accepted them, other States Parties still being bound by the provisions of the present Protocol and any earlier amendment that they have accepted.

### **Article 35**

Members of the Subcommittee on Prevention and of the national preventive mechanisms shall be accorded such privileges and immunities as are necessary for the independent exercise of their functions.

Members of the Subcommittee on Prevention shall be accorded the privileges and immunities specified in section 22 of the Convention on the Privileges and Immunities of the United Nations of 13 February 1946, subject to the provisions of section 23 of that Convention.

### **Article 36**

When visiting a State Party, the members of the Subcommittee on Prevention shall, without prejudice to the provisions and purposes of the present Protocol and such privileges and immunities as they may enjoy:

- a) Respect the laws and regulations of the visited State;
- b) Refrain from any action or activity incompatible with the impartial and international nature of their duties.

### **Article 37**

1. The present Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.
2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States.

### **Article 3**

In occasion of submitting the instrument of ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Montenegro hereby makes the following statement:

„In accordance with Article 24 of the Optional Protocol to the Convention against Torture or Other Cruel, Inhuman or Degrading Treatment or Punishment, Montenegro hereby postpones the obligation under part IV for a period of two years from entering in force of the present Protocol.“

### **Article 4**

This Law shall enter into force eight days after its publication in the Official Gazette of Montenegro. SU-SK Number 01-1038/5 Podgorica, 17 December 2008

**The Parliament of Montenegro** the President,  
**Ranko Krivokapić**

“The translation of this report has been financed by the OSCE Mission to Montenegro”

