

PUBLIC DEFENDER OF RIGHTS



Annual report of the National Preventive Mechanism for 2023

Presented to the National Council
of the Slovak Republic by:

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Bratislava March 2024

According to Par. 23 Sec. 2 of Act no. 564/2001 Coll. on the Public Defender of Rights as amended, the Public Defender of Rights prepares a specific annual report on the course and results of visits of the National Preventive Mechanism according to international treaties by which the Slovak Republic is bound.¹

The authorities discharging the mandate of the National Preventive Mechanism – the Commissioner for Children and the Commissioner for Persons with Disabilities cooperate with the Public Defender of Rights in this regard.²

In accordance with the cited provision, we shall present the National Council of the Slovak Republic the

Annual report of the National Preventive Mechanism for 2023.

¹ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Regulation of the minister of foreign affairs no. 143/1988 Coll.) as amended by the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Notification of the Ministry of Foreign and European Affairs of the SR no. 448/2023 Coll.)

² Par. 23 Sec. 2 second sentence of Act no. 564/2001 Coll. on the Public Defender of Rights as amended, Act no. 176/2015 Coll. on the Commissioner for Children and the Commissioner for Persons with Disabilities as amended.

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1 Introduction

Distinguished Members of the Parliament, Ladies and Gentlemen,

We are delighted to say that after extensive negotiations in 2023 our country also committed to a stronger protection of human rights by ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter as the “Optional Protocol”). The ratification of the Optional Protocol represents a big step, not least because it obliged the Slovak Republic to create the so called **National Preventive Mechanism** (hereinafter as the “NPM”).

In the Slovak Republic the NPM is an innovative element enabling for a systematic monitoring of conditions at places where **persons deprived of liberty are or may be**. Our aim is to provide for a proper and safe environment for these persons and decrease in the greatest possible extent the risk of torture or other cruel, inhuman or degrading treatment or punishment at these places.

We shall be of the view that the Slovak Republic took on the international obligation with utmost responsibility to create the NPM and confirmed by ratifying the Optional Protocol our long-term striving for transparency, justice and preservation of human dignity also at places where we would not often want to find ourselves.

With our consistent work we would like to bring light into the dark corners of the society and believe that together we can make positive changes in the lives of those most vulnerable. We see the NPM as an important place to make **systemic recommendations and spread examples of good practise**.

At last, but not least, we consider the establishment of the NPM as a confirmation of the immense importance of our **terrain work**. We assume that the human right problems of the people of Slovakia can be identified and perceived this way. At the same time, we can thus prove to the executive our personal interest on its approach to the people.

After the ratification of the Optional Protocol, we aim to meet the mandate of the NPM the best we can within our competences and coordinate at the same time our common conduct as the legislative divided the mandate of the NPM between three existing human right institutions. In this regard, all three institutions intensely cooperate and several joint work meetings and trainings have already taken place.

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Public Defender of Rights

Zuzana Stavrovská
Commissioner for Persons
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Jozef Mikloško
Commissioner for Children

2 National Preventive Mechanism

2.1 Legal base

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

The obligation to establish the NPM results from the Optional Protocol, ratified by the Slovak Republic on 4 July 2023 and which took effect on 19 October 2023.

The Member States of the United Nations Organisation (hereinafter as the “UN”) negotiated the Optional Protocol upon the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter as the “UN Convention against Torture”).

According to Article 2 and 16 of the UN Convention against Torture, each Member State shall take effective legislative, administrative, judicial or other measures to prevent torture³ in any territory under its jurisdiction as well to **prevent further cruel, inhuman or degrading treatment or punishment** which do not amount to torture, when such acts are committed by a public official or other person acting in an official capacity or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.

The Contracting States joined these obligations by ratifying the Optional Protocol with the belief that in order to comply with the aims of the UN Convention against Torture further steps must be taken and the protection of persons deprived of liberty fortified against torture and other cruel, inhuman or degrading treatment or punishment (hereinafter as the “ill-treatment”).

The Optional Protocol introduces the system of **regular preventive visits** by international or national body or bodies. **The Contracting States in order to provide for the preventive aim of systematic visits acceded to an intentionally extensive definition** of places of deprivation of liberty, as well the very institute of deprivation of liberty.

The place of deprivation of liberty is defined in the Optional Protocol as any place under the jurisdiction and control of the State 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.⁴

Deprivation of liberty means for the purposes of the Optional Protocol 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.⁵

³ Torture is defined in Article 1 of the UN Convention against Torture as any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.

⁴ Article 4 of the Optional Protocol.

⁵ Id.

Places where persons deprived of liberty are or may be found can thus be apart from the typical establishments such as the facilities for execution of prison sentence and pre-trial detention for example also

- ✓ transit zones at border crossings, international harbours and airports;
- ✓ means for the transport of persons deprived of liberty;
- ✓ social service homes operated by the State or subject to State regulation;
- ✓ youth care institutions.

At the international level the mandate of the preventive mechanism is discharged by the **Subcommittee for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment** (hereinafter as the “SPT”).⁶

The SPT visits places of deprivation of liberty in sense of the Optional Protocol and makes recommendations afterwards to the Contracting States how to prevent ill-treatment as best. In order for effective visits by the SPT, the Contracting States are (among others) obliged to grant the members of the SPT unlimited access to all places where persons deprived of liberty are or may be found and talk to them or to anyone the SPT finds appropriate.

The SPT also advises and assists, when necessary, the Contracting States to establish the NPM, maintains direct, and if necessary confidential contact, offers trainings to the NPM and technical help to strengthen its capacity. The SPT also advises and assists the NPM to evaluate the needs and means necessary for the strengthening of protection of persons deprived of liberty against ill-treatment.⁷

The preventive function at national level is to be discharged by the NPM. **The Optional Protocol therefore requires the Contracting States** to establish, define or maintain the authority or authorities operating preventively to precede any action which could be described as ill-treatment.⁸

2.1.2 What is the NPM?

The NPM is an independent body with a clear **preventive function**. The role of the NPM is to control by **regular, systematic visits** the treatment of persons deprived of liberty in order to strengthen their protection against ill-treatment. The mandate of the NPM is therefore not to examine or decide on individual complaints on ill-treatment, **but to identify the risk of ill-treatment emerging from systemic shortcomings and routine conducts and aim to prevent ill-treatment at the systemic level with the view of avoiding it in the future as well.**⁹

For the NPM to operate properly, the Optional Protocol contains several basic criteria which the mechanism should meet in the institutional regard, as well in terms of competence. According to the Optional Protocol, the NPM should be functionally independent. Independent should be also its personnel. The employees and experts cooperating with the NPM should at

⁶ Article 2 and foll. of the Optional Protocol.

⁷ Article 11 of the Optional Protocol.

⁸ Article 3 and 17 of the Optional Protocol.

⁹ [Prevention of Torture. Role of the National Preventive Mechanism, practical handbook](#), 21st edition, pg. 5.

the same time have the required competence and professional knowledge. The Optional Protocol further urges the Contracting States to strive for gender balance and the adequate representation of ethnic and minority groups in the country and obliges them to make available **the necessary financial resources** for the functioning of the national preventive mechanisms.¹⁰

In addition to these criteria the Optional Protocol cites also a list of competences the NPM should dispose with to grant a due discharge of its mandate. These competences are in particular:¹¹

- ✓ access to all information concerning the number of persons deprived of their liberty in places of detention, as well as the number of places and their location;
- ✓ access to all information referring to the treatment of those persons as well as their conditions of detention;
- ✓ access to all places of detention and their installations and facilities;
- ✓ 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;
- ✓ the liberty to choose the places they want to visit and the persons they want to interview;
- ✓ the right to have contacts with the SPT, to send it information and to meet with it.

The **obligation** is connected to these entitlements of the Contracting State to examine the recommendations of the national preventive mechanism and enter into a dialogue with it on possible implementation measures.¹²

Given the above listed information, the main mandate of the NPM is to conduct systematic visits at places where persons deprived of liberty can or may be found and to submit recommendations in this regard to the relevant authorities and institutions such as the ministries, police, founder and director of the facilities. Important part of the mandate of the NPM is also the revision of existing laws and legislative drafts.

The mandate of the NPM is not completed only by conducting visits, composing the report and making recommendations. Another important part of the mandate of the NPM is the cooperation with all relevant persons involved to prevent ill-treatment. This cooperation includes for example the organisation of various educational activities, round table and other meetings.

In regard of education, the NPM engages in various trainings, educative and other activities in order to promote the knowledge about what ill-treatment is and how to prevent it. The purpose of these activities is among others to provide for the education of people in contact with persons deprived of liberty (for example, security forces, healthcare staff, social workers, employees in youth care institutions, etc., to be sufficiently targeted to the prevention of ill-treatment).¹³

¹⁰ Article 18 of the Optional Protocol.

¹¹ Article 20 of the Optional Protocol.

¹² Article 22 of the Optional Protocol.

¹³ Prevention of Torture, Role of the National Preventive Mechanism, practical manual, 21st edition, pg.6.

The NPM actively communicates through meetings, conferences and round table meetings with competent public authorities, founders and leaders of the facilities, as well the civic society to share knowledge and strengthen the efficiency of prevention.

During monitoring the monitoring team follows the Istanbul Protocol¹⁴ which was issued as methodological manual in 2021 by the Office of the United Nations High Commissioner for Human Rights and revised in 2022.

According to this Protocol, in order to fulfill their tasks following from the listed international conventions, the monitoring team must carry out its mandate without any restrictions, inducements, pressures, intimidation, improper influences or interferences, direct or indirect, or for any reason, or unjustified exposure to civil, penal or other liability.¹⁵

2.1.3 NPM in Slovakia

The NPM in Slovakia is established since 1 May 2023, that is, since the amendment of the Act on the Public Defender of Rights, the Act on the Commissioner for Children and the Commissioner for Persons with Disabilities took effect.¹⁶

The Slovak Republic decided to divide the competence of the NPM between **three already existing authorities**, discharging the entrusted mandate in regard of protection and support of human rights, namely the Public Defender of Rights, the Commissioner for Children and the Commissioner for Persons with Disabilities. The legislative decided at the same time to divide their competence in relation to the respective facilities.

Pursuant to the relevant legal regulation, the Public Defender of Rights when discharging its mandate, the NPM conducts systematic visits to:¹⁷

- ✓ places where custody, imprisonment or detention are carried out;
- ✓ facilities for asylum seekers and
- ✓ other places where persons deprived of liberty by public authorities are or may be found, in particular police detention cells and detention facilities for foreigners.

According to the amended wording of the Act on Commissioners¹⁸ **the competence of the Commissioners** in regard of the position of the NPM is divided with regard to their specialisation, that is, **according to places where children or persons with disabilities can or may be found.**

¹⁴ [Istanbul Protocol: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](#) (edition from 2022), Office of the United Nations High Commissioner for Human Rights.

¹⁵ Istanbul protocol, pg. 28.

¹⁶ Act no. 110/2023, amending and supplementing Act no. 564/2001 Coll. on the Public Defender of Rights as amended.

¹⁷ Par. 3 Sec. 3 of Act no. 564/2001 Coll. the Act on the Public Defender of Rights as amended.

¹⁸ Act no. 176/2015 Coll. on the Commissioner for Children and the Commissioner for Persons with Disabilities as amended.

The Commissioner for Persons with Disabilities when discharging the mandate of the NPM conducts systematic visits to:¹⁹

- ✓ places where protective treatment takes place;
- ✓ places where persons with disabilities deprived of liberty by public authorities or in result of dependency on care provision can or may be found, in particular in health care institutions, social service institutions and other institutions providing similar care, including institutions without registration upon specific laws.

The Commissioner for Persons with Disabilities is competent to exercise its powers also against private subjects if they operate facilities under the extended competence of the Commissioner.

The NPM team operating within the Office of the **Commissioner for Children** conducts systematic visits to:²⁰

- ✓ special educational facilities and facilities of social protection of children and social guardianship;
- ✓ other places where children deprived of liberty by public authorities or in result of dependency on care provision are or may be found.

The first category includes facilities such as for example diagnostic centres, re-educational centres, medical and educational nursing homes, centres for children and families, facilities of institutional care or resocializing facilities.

The second group of places where children deprived of liberty are or can be found are for example the facility for execution of sentences of minors, facilities for execution of pre-trial detention, police detention cells and designated areas, asylum facilities and places where minor persons are quarantined or isolated.

2.1.4 Coordination

With regard to the division of the mandate of the NPM between three institutions there was also the need to provide for the uniform implementation of the Optional Protocol and a uniform operation of the NPM. The legislative therefore entrusted the Public Defender of Rights with coordinating authority.²¹

In relation to the coordinating authority of the Public Defender of Rights however the actual legal regulation contains a rather vague provision according to which the Public Defender of Rights as the coordinating authority of the NPM produces summaries, reports, recommendations, including the specific report on the course and results of visits to facilities or places according to Par. 3 Sec.3 of the Act on the Public Defender of Rights and communicates with the respective international contracting authority.²²

¹⁹ Par. 10 Sec. 2 h) of Act no. 176/2015 Coll.

²⁰ Par. 4 Sec. 2 h) of Act no. 176/2015 Coll.

²¹ Par. 3 Sec. 2 of Act no. 564/2001 Coll.

²² Par. 22a Sec. 1 of Act no. 564/2001 Coll.

With regard to the aforesaid facts, the leading representatives of all three institutions agreed the coordinating mandate of the Public Defender of Rights to include mainly the representation of the NPM externally in relation to the National Council of the Slovak Republic, international bodies such as for example the SPT, Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter as the "CPT"), Organisation for Security and Cooperation in Europe (hereinafter as the "OSCE"), the European Council and the more, as well the organisation of joint trainings and other events. The respective institutions maintain at the same time autonomy in setting priorities as for conducting systematic visits by the NPM, processing methodical approaches, as well summaries from the respective visits.

Albeit all three institutions function based upon mutual respect and trust, the coordinating activity is already proving as the most demanding challenges. Partially also for the reason that the Public Defender of Rights was not afforded any additional financial resources.

Moreover, regard must be taken also to the fact that in case of division of the mandate of the NPM between several institutions, the leading representatives could perceive the function of the NPM and its mandate differently. Although the legislative considered two situations where a dispute could arise between the respective institutions about who is to conduct systematic visit in the specific facility.²³ These two cases must however not be unique where the respective institutions could collide.

For instance, the law does not regulate in any way the conduct in the harmonisation of standards of evaluation of ill-treatment, methodical conduct during systematic visits or other demarcation disputes. Will the Defender of Public Rights have the decisive say in such cases or another institution the mandate of the NPM is vested into, or will it be a completely different, fourth authority or will some form of voting be invented? Neither the law, nor the explanatory report answer this question in any way.

We therefore find important in this regard the extent of coordinating authorities to be specified in more detail in the legislation and that the institution providing for this task to be afforded sufficient financial resources.

²³ Par. 22a Sec. 3 and 4 of Act no. 564/2001 Coll.

2.2 Working method

The NPM teams operating in the OPDR (hereinafter as the “NPM OPDR”) at the Office of the Commissioner for Persons with Disabilities (hereinafter as the “NPM OCPD”), as well the NPM team operating at the Office of the Commissioner for Children (hereinafter as the “NPM OCCH”) conduct systematic visits **essentially announced**.

At the same time, all three institutions conduct visits according to an annual plan scheduled in advance which regard the criteria such as the geographical location of the facility, its size and human right questions familiar from the previous practise. In case of some of the facilities also upon the criteria such as the security level and division of persons deprived of liberty upon sex or age. The plans are at the same times comprised to also regard the actual dynamics of development of human rights questions in the respective facilities and include some of the facilities into the plan accordingly.

The purpose of these plans is to provide for visits at all places where people are or may be deprived of liberty without exception and repeatedly.

As the Optional Protocol and further international instruments²⁴ do not contain any specific methods of establishment of risk factors and fundamental causes resulting in ill-treatment or the repeated occurrence thereof in the future, each NPM team has an elaborated **internal method** of conducting systematic visits adjusted to places within their competence. Apart from the listed information the respective methods include also practical information, such as for example how to proceed when organising monitoring, including also the fundamental principles to observe during monitoring, fields to focus on during monitoring and eventually a file of sample questions for the respective respondents.

The NPM OPDR focuses primarily on areas under the greatest possible risk of ill-treatment, in particular:

- ✓ material conditions, hygiene, capacity of the facility;
- ✓ contact of persons deprived of liberty with the outside world;
- ✓ treatment of persons deprived of liberty, including the use of coercive means and imposing disciplinary punishments;
- ✓ access to legal aid;
- ✓ access to health care.

Monitoring question of the NPM OCPD by which the respective facilities are monitored, are divided the following thematic areas:

- ✓ patient / client admission;
- ✓ restrictive means /means of physical restriction;
- ✓ electro convulsive therapy (for psychiatric facilities);
- ✓ conditions in the facility and normal routine;
- ✓ contact with the outside world;
- ✓ conflict and complaint resolution mechanism;

²⁴ For example, the UN Convention against Torture, European Convention for Human Rights, Istanbul Protocol.

- ✓ working conditions of the employees.

During monitoring the NPM OCCH focuses mainly on the following areas with emphasis to prevent possible ill-treatment of children:

- ✓ manner of placing the child into the facility and the adaptation phase;
- ✓ quality of relationship bond in the facility;
- ✓ contact with the outside world;
- ✓ mechanizmus riešenia sťažností,
- ✓ daily regime;
- ✓ material support and staff of the facility.

The systematic visit by the NPM in all three institutions involves preparation, the conduct as such, as well the subsequently made recommendations during the monitoring visit. The monitoring visit includes in particular the initial dialogue with the management of the facility, inspection of the facility, private conversations with the persons deprived of liberty, the employees of the facility or other persons selected by the NPM team, observation, making photo documentation, analyses of registers and other relevant documentation and final conversation with the management. All sources of information **cross-checked to make sure that the findings are objective and reliable.**

After the systematic visit, collection and analysis of all documents, the NPM issues an individual report, containing in essence the description of conditions in the facility, standards of assessment of ill-treatment and the related findings and recommendations for all involved subjects which are in the rule the management of the facility, its founder and the materially and territorially competent public authorities. The purpose of the measures / recommendations is **to address the risk factors and fundamental causes** leading to ill-treatment in order to prevent their occurrence or recurrence in the future and targeted in accordance with the purpose of the Optional Protocol to primary and systemic issues.

Individual reports from the systematic visits, as well the response of the involved subjects is published on the web sites of the respective institutions discharging the mandate of the NPM. The specific report of the NPM is published only on the website of the NPM OPDR.

Website of the NPM OPDR: www.vop.gov.sk/navstevy/;

Website of the NPM OCPD: www.komisar.sk/;

Website of the NPM OCCH: [www.komisarpredeti.sk.](http://www.komisarpredeti.sk/)

2.3 Organisational structure

2.3.1 Public Defender of Rights

To discharge the mandate of the NPM the number of employees of the Office of the Public Defender of Rights (hereinafter as the “OPDR”) was increased by six persons. In this regard the organisation order was changed and the individual **division for supervision over the deprivation of liberty created at the OPDR**. The OPDR initiated the operation of the NPM in regard of personnel by transferring the existing employees handling individual complaints at places where liberty is deprived and providing for their qualified training in cooperation with partner ombudsman institutions in the Czech Republic, Poland and Hungary. At present, the division has five employees in full time employment, four in permanent State service and one in temporary State service.

All employees are lawyers, with several years of professional experience in the field of human rights. The Public Defender of Rights plans to extend the NPM team with external experts who will in sense of international recommendations together with the lawyers from the division of supervision over the deprivation of liberty, participate at systematic visits and cooperate afterwards also in processing the individual reports from the visits. These are namely various medical professions, like the general practitioner, traumatologist, psychologist, psychiatrist, nurse but also other professions such as for example social workers.

In the OPDR the head of the division of supervision over the deprivation of liberty is Mag. iur. Katarína Trnková, LL.M.

2.3.2 Commissioner for Persons with Disabilities

A new organisational unit took charge of the agenda of the NPM at the Office of the Commissioner for Persons with Disabilities (hereinafter as the “OCPD”). This organisational unit has six working positions, of which three are for people with legal qualification, two positions for people qualified for social work and one position for the NPM office manager (office management).

Further challenge is to create a list of external expert cooperators the NPM cooperates with in accordance with the Istanbul Protocol.²⁵ The list will gradually include professionals from various considered fields such as psychiatrist, general practitioners, nurses, psychologists, and for example also experts for inclusive education or IT.

At the OCPD the head of the NPM team is JUDr. Kristína Čahojová.

²⁵ Ibidem.

2.3.3 Commissioner for Children

The State afforded the Office of the Commissioner for Children (hereinafter as the “OCCH”) financial resources for new employees in charge of the tasks of the NPM, in full time employment. With regard to the number of facilities in the competence of the Commissioner for Children at the NPM, the Commissioner for Children points to insufficient personnel resources for an effective discharge of the mandate of the NPM, as the facilities (and other places where children are deprived of liberty) must be monitored in sense of the manuals of the NPM regularly to provide for the preventive mechanism against ill-treatment.

At the OCCH the NPM forms a separate team, consisting of four employees (*expert advisors of the Commissioner for Children*), in full / part time employment and external experts (*employed upon a work agreement*)

The basic NPM team is formed by four employees of the OCCH:

- ✓ two lawyers specializing in family law, protection of the rights of the children;
- ✓ social worker, with long term engagement in social protection of children and social guardianship;
- ✓ psychologist with experience in working with children and families in facilities of social protection of children and social guardianship.

The experts for the NPM provide mainly consultation services and can at the same time be present at the monitoring as such. The NPM team presently includes experts in the field of international law and consideration of the best interests of the child and in the field of social protection of children and social guardianship, with experience mainly from institutional care facilities. In the future the team of experts will be extended by doctors, psychologists and social workers.

At the OCCH the head of the NPM team is Mgr. Adrián Klimo, professional advisor for the Commissioner for Children.

3 Activities of the NPM

3.1 Systematic visits

At the OCPD and OCCH during the summer and autumn months of 2023 tenders took place for newly created work positions and new employees admitted, gradually acquainting with the working methods at the offices, as well with the new competences.

In 2023, the employees of the OCPD together with the OCPD team participated also at monitoring according to the Convention on the Rights of Persons with Disabilities, observed the course of monitoring in the practise and transformed the final information into a completely new methodics by which the OCPD assessed the observation of rights according to the UN Convention against Torture.

At the OCCH the new employees were trained at various internal meetings, as well in presence of external professional to the new competences of the NPM and enhanced their professional and practical knowledge necessary for the discharge of the NPM and creation of methodics. The rising NPM team conducted in autumn 2023 also announced visits to certain facilities to found out practical information to a better determination of the fields to be monitored within the NPM. Part of the preparation of the NPM team for new tasks was also contacting different institutions controlling and supervising over facilities where children deprived of liberty or dependent on care can be found; the OCCH enquired particularly about the methods and conducts during controls / supervisions as well about the results of control of these facilities for the past period.

At the OPDR the NPM started practical systematic visits since the domestic regulation took effect. In the beginning those were mainly systematic visits of smaller facilities, such as police detention cells, or designated areas. Such relatively quick transition to the NPM agenda was enabled by the character of the noted facilities, existing staff, as well the fusion of the actual activity of the Public Defender of Rights with the mandate it acquired within the NPM. The purpose of the initial monitoring was mainly the practical verification of the option of application of the existing methodical documents and the preparation of the members of the NPM team for monitoring larger facilities, such as police detention centres for foreigners, facilities for service of the sentence of imprisonment and facilities for service of detention.

3.1.1 Public Defender of Rights

In 2023 the NPM of the OPDR conducted a three-day unannounced visit at the **Police Detention Centre for Foreigners in Sečovce**. It focused mainly on the observation of rights of the persons placed in the facility, precisely, the treatment with the detained foreigners, the use of coercive means, placement of people into separate security regime, access to the safeguards of the rights, access to healthcare and material conditions in the facility.

The main issues identified by the NPM OPDR during the visit was the restrictive regime and absence of meaningful activities, failure to observe the length of walks set by the law, lack of opportunity to connect with the family, lack of information about the options of legal aid and the legal regime as such applicable for the detained persons. The NPM OPDR similarly notified of

the insufficient legal regulation of placement into separate detention regime. It also established insufficient access to information about the interim order of the facility, as well the rights and obligations, problematic access to the doctor in the facility, as well the prohibition to wear own clothes or an overall seizure of mobile phones.

Regarded as questionable was the service intervention carried out by the unit of the Directorate of Border and Foreign Police Sobrance after some foreigners escaped from the facility. The Directorate of Border and Foreign Police Sobrance did not sufficiently cooperate with the NPM OPDR whereas the claims of several foreigners and the members of the Police Forces about the use of violence during intervention were mutually contravening.

The result of visits are 43 measures, addressed not only to the facility as such, but also to the Presidium of the Police Forces and the Ministry of Interior of the SR, as systemic shortcomings were identified in several cases mainly due to the lack of personnel and financial resources.

The complete report from the monitoring by the NPM at the Police Detention Centre for Foreigners in Sečovce ²⁶ is published on the website of the Office of the Public Defender of Rights.

In 2023 the NPM OPDR also started a set of visits in police detention cells and designated areas to assess the material conditions and treatment with persons deprived of liberty. The NPM OPDR visited police departments in **Bratislava** (in city parts **Karlova Ves, Dúbravka, Devínska Nová Ves**), **Modra, Pezinok. Galanta and Banská Bystrica**.

During unannounced visits several shortcomings were identified. In some of the cases detained persons were placed in the designated areas **unreasonably long**, even for the night²⁷, official records **lacked notes on deprivation of liberty** and detained persons could not keep the advice on their rights and obligations. In certain premises without a toilet **the signal devise was missing** to call the police officer.

As for material conditions, the NPM OPDR at some of the police stations found sanitary facility (toilets) located in the cell **without sufficient visual partition** from the remaining premise. In the summer in the evening hours there were **31 degrees** in one of the police detention cells.

The NPM OPDR is concerned that at the Circuit Department of the Police Forces in Devinska Nová Ves the **unlawful practise persists** of chaining persons deprived of liberty to solid objects (for example, heater, bars) on the floor, whereas such practise is even in contravention with international recommendations. Since 2000, the CPT Committee repeatedly urges the Slovak authorities to adopt effective measures to completely eliminate the unwanted practise of chaining persons deprived of liberty to objects solidly connected with the walls or similar objects at police stations. The conduct of the public authority, not in accordance with the statutory provisions can in the democratic and legal State not be excused by operational,

²⁶ [Report from the Monitoring of the PDCF Sečovce.](#)

²⁷ The designated area, unlike the police detention cell, does in the rule not meet the material conditions of equipment for a long term stay of the person (absenting toilet, washing basin with running water, bed). The designated area should serve only for a short-term placement of persons between carrying out the respective procedural acts of criminal proceedings or other acts related to the reasons of deprivation of liberty according to Par. 42 of the Act on Police Forces.

organisational, technical, financial or any other institutional needs. Persons deprived of liberty cannot suffer from the consequences of insufficient capacities.

3.1.2 Commissioner for Persons with Disabilities

On 5 November 2023 the NPM team conducted an unannounced monitoring in the **Modra hospital, n.o.**, specialized facility and social services facility.

At the beginning of the visit the Commissioner as the leader of the NPM OCPD informed the management of the facility about the authority and competence of the Commissioner for Persons with Disabilities, the mandate of the NPM OCPD, its conduct during the monitoring visit, including the acquaintance with the requested documents of the facility, observation of conversations with the employees and clients of the facility and making photo documentation. At the end of the visit a discussion took place with the management of the facility which was informed about the most concerning findings.

According to the findings of the monitoring team, in this facility there were also persons who are de iure voluntarily in the facility but are in fact deprived of liberty as they expressed the will to leave the facility and such will of them was not respected. The monitoring team also established serious shortcomings in the work of social workers, as shortcomings in individual, risky and adaptational plans. Clients were restricted in contact with the outside world and on their freedom of movement by locking the facility whereas activities took place in the facility only very rarely. The monitoring team assessed all these findings as ill-treatment, prohibited by the UN Convention against Torture.

More details are listed in the individual report on the website of the OCPD www.komisar.sk.

The second monitoring by the NPM OCPD in the past year was the **monitoring in the Children's Psychiatric Hospital n.o. Hraň**, from 11 to 13 December 2023.

As for the results of the monitoring in the Children's Psychiatric Hospital, the NPM OCPD established disturbing information about the treatment of children as there was also **physical violence on children**. The NPM OCPD regarded as ill-treatment the fact that immediately after acceptance the children were in the rule placed in the room for isolation, without any contact with children or any amusement. Isolation was also stressed by getting the hair cut after arrival. Initiation of psychotherapeutic sessions was strictly bound to the adaptational period in the first month. Even further, therapies took place rarely and irregularly, with approximately two to four weeks apart for the minimum number of patients (30%). There were no clear rules of operation which induced fear in the patients and worries from questions being raised – they had the feeling that once they started asking about the rules or had any requirements, their stay was extended (“as punishment”). The NPM OCPD team further regarded as ill-treatment the impossibility of the child patients to make any contact with the outside world regardless of the health condition and regardless of the fact that some children could have used their mobile phones at the set time. The children could not contact their close ones from the landline of the facility or leave the facility against permit. Finally, the overall treatment with children in the hospital was assessed as degrading, completed by the lack of protection of privacy in result of a 24-hours monitoring of the rooms by recording cameras.

More details are also listed in the individual report on the web site of the OCDP www.komisar.sk.

3.1.3 Commissioner for Children

By the end of 2023 the NPM OCCH conducted one unannounced visit in the facility – Centre for Children and Family Pezinok (hereinafter as the “CCHF”). The visit was conducted upon information obtained from the activity of the Commissioner for Children, according to which the suspicion was identified of ill-treatment.

Upon the visit and the monitoring of the situation in the facility, the NPM OCCH established violation of several legal rules (in particular the insufficient keeping of file documentation, unlawful restriction of the contact of the parents with the child), encountering whereby also ill-treatment in sense of the UN Convention against Torture. It was identified that the CCHF restricted the contact of the minor child in institutional care with the biological parent for indefinite time, justifying it with the need of the child to adapt to the conditions in the CCHF (or professional family) even if the parents did not pose any danger to the minor child. These conducts are not supported in any legal rules or internal regulations of the Office of Labor, Social Affairs and Family, contravening moreover several legal rules.²⁸

In line with the doctrine, even an action could amount to ill-treatment which could invoke in the person fear, anxiety, as well intense physical suffering. Upon the established facts, the conduct of the CCHF by restricting the contact of the child with the parents caused in the child such severe psychological trauma that it could amount to ill-treatment in sense of the UN Convention against Torture.

The NPM OCCH informed the facility about the violation of certain rules and ill-treatment which occurs and can occur in the future by such approach and made several recommendations to the facility for remedy in regard of maintenance of physical contact of the parents with the children also during the process of the so called adaptive phase of the child in the facility (*professional family*). It informed at the same time the Office of Labour, Social Affairs and Family about the need for regular retraining of methods of the CCHF employees to prevent the repetition of the given situation – the NPM OCCH team will follow up on the implementation of recommendations into the practise also in 2024.

²⁸ Article 9 of the Convention on the Rights of the Child, Article 41 Sec. 4 of the Constitution of the Slovak Republic, Par. 53 Sec. 1 of Act no. 305/2005 on Social Protection of Children and Social Guardianship as amended, Par. 54 Sec. 4 of Act no. 36/2005 on Family as amended.

3.2 Cooperation at national and international level

3.2.1 Joint activities

On 5 April 2023 the first coordinating meeting to the implementation of the NPM took place with the representatives of all three institutions. The topics of the meeting were the qualification requirements for new employees who will deal with this issue during their work, structure and composition of monitoring teams which will conduct systematic visits, methods by which the observation of the UN Convention against Torture will be evaluated, as well education of employees carrying out the new competence.

To create and improve the methods, on 11 October 2023 a meeting of the representative of the OCPD, OCCH, as well the representative of the OPDR with the representatives of the Office of the Public Defender of Rights in the Czech Republic took place in Brno, in the Czech Republic with the purpose to exchange information and experience in regard of the preparation of discharge of the new competence of the NPM.

In November 2023 the representatives of all three NPMs welcomed two representatives of the SPT and two representatives of the OSCE. The purpose of this meeting was to exchange contacts and offer support to the national NPMs by the SPT in creating a new mechanism in Slovak conditions.

3.2.2 Independent activities

Apart from the already mentioned joint activities, the respective NPM teams also engaged in meetings and cooperation within their own material competence.

The Public Defender of Rights and the head of the NPM OPDR attended on 14 November 2023 a meeting with the representatives of the Austrian ombudsman. During the meeting they familiarized with the operation, structure and activities of the Austrian NPM and also exchanged information about cooperating with external co-workers. The Austrian party suggested in this regard the Public Defender of Rights and the head of the NPM OPDR the possibility to participate as observers at one of the monitorings conducted during the activity of their NPM.

From 13 to 15 December 2023 the Public Defender of Rights, the head of the section of protection of fundamental rights and freedoms and the entire NPM OPDR attended a training in Warsaw at the Polish Public Defender of Rights. The visit was targeted to gain experience from our Polish colleagues in terms of creation of the NPM and conducting systematic visits, mainly in facilities in the competence of the Public Defender of Rights. The head of the Polish NPM and his deputy informed us in detail about the methods, frequency of visits, number and composition of the expert team, but also the processing and presentation of results from the respective controls. We could also personally visit the biggest prison in Poland and familiarize directly on the spot with the conducts during monitoring visits as such.

During the negotiations with the representative of the Polish ombudsman supervising over the NPM division we were informed about the actual state of refugees at the Belarus Polish border.

The three days program was completed with the meeting with the representatives of the OSCE where we discussed their newest projects and cooperation with the Polish NPM about the options to participate at trainings and reflected also to topics at the November visit of the OSCE in Bratislava.

At the **Office of the Commissioner for Persons with Disabilities** the head of the NPM team when drafting up the methods and activities of the NPM participated at the sixth meeting of the national NPMs at European level, held on 9 and 10 November 2023 in Copenhagen. This year's meeting was dedicated to the topic of mental health – in the facilities where people are deprived of liberty, such as prisons, as well to the topic of completing monitoring in psychiatric facilities and social service institutions.

At the **Office of the Commissioner for Children** they engaged in cooperation mainly at domestic level. In this regard they initiated cooperation with the Office of Labour, Social Affairs and Family, with the Prosecution General of the Slovak Republic, the Public Health Authority of the Slovak Republic, the Health Care Surveillance Authority, the Ministry of Labour, Social Affairs and Family of the Slovak Republic (*with the Inspection of social affairs*) in the field of

- ✓ their controlling/supervisory/monitoring activity and summaries from such activity in facilities where children deprived of liberty can be found or are or may be due dependency on care provision for the past five years (hereinafter as the “facilities”);
- ✓ recommendations or other procedural steps implemented in regard to the controlled/supervised/observed facility;
- ✓ methods regulating the conduct during control/supervision/observation in the facilities.

Cooperation was similarly established with the association of Family Judges in regard of recommendations for the improvement of the position of children in preventing ill-treatment in facilities. Cooperation was established also with the Judicial Academy of the SR about the educational seminars/trainings/other educational and edifying events in regard of torture and treatment of minor children.

Obtaining the listed information and examination of documents and summaries helped the NPM OCPD to set up the methods and conducts of monitoring facilities within the NPM, to determine the focus on poorly addressed areas and on the contrary also on highly problematic areas, to examine the actual state of monitoring of children's rights to make the work of the NPM OCPD more effective during the discharge of the mandate of the NPM.

4 Priorities in 2024

4.1 Public Defender of Rights

As many findings point to systemic problems in the conditions and treatment of persons deprived of liberty, the NPM OPDR plans to continue in 2024 mainly with systematic visits of facilities in the competence of the Public Defender of Rights.

To control the implementation of the made recommendations, the NPM OPDR further plans so called follow up (subsequent) visits of places already monitored by the NPM in the past and similarly to conduct thematic visit targeted to convicts serving the lifelong sentence of imprisonment. Further aim is to elaborate a summary report from the systematic visits in police detention cells and in designated areas with concrete recommendations for the Ministry of interior of the Slovak Republic and for the Presidium of the Police Forces.

Apart from these main activities the NPM OPDR plans to participate at trainings and meetings with partner institutions to maximally enhance knowledge in regard of prevention of ill-treatment. In this regard a training on the use of coercive means is planned to March 2024 for all three NPM teams.

The NPM OPDR also plans to elaborate a system of educative activities and meetings (round table meetings, conferences, etc.) where the acquired knowledge could be presented to various audience and the awareness about the protection of human rights thus extended, with accent to the prevention of ill-treatment.

At last, but not least, the NPM OPDR will further target coordination tasks, conduct joint systematic visits with the NPM OCPD and NPM OCCH and organize joint activities, as well.

4.2 Commissioner for Persons with Disabilities

In 2024 the NPM OCPD will continue in the first place with unannounced monitoring visits of psychiatric facilities, as well social services homes. After the completion of the report from the monitoring visit each facility will have the opportunity of an oral discussion of this report with the OCPD with the option to organize “tailor made” trainings in regard of the issues of the respective facility.

As for monitoring, since the NPM has a fairly extensive mandate, key questions and aims will need to be targeted in the future to establish at the end of the period how the NPM approached the discharge of its mandate. The disturbing finding emerged from the long-term monitoring practise of the NPM according to the Convention on the Rights of Persons with Disabilities that the healthcare workers, as well social service workers often disrespect the will / manifestations of the clients / patients regarding their care and de facto unlawful restriction of liberty occurs. The Commissioner and the NPM OCPD focus in the first years of their activity on the first round of their monitoring activity – admission of the patient / client into the facility.

As for the legal mandate to monitor facilities where protective treatment takes place, in cooperation with the Prosecution General of the SR the NPM OCPD will monitor these

facilities and the established findings will be reflected into the recommendations of systematic resolutions before the authorities in charge, that is, before the Ministry of Health of the Slovak Republic and the Ministry of Justice of the Slovak Republic.

Further great challenges for the NPM OCPD will be the establishing and monitoring of provision of psychiatric and psychological care in facilities where disabled persons are deprived of liberty, for example, in prisons or asylum centres.

Finally, when handling the incentives of the OCPD, there is often the issue of ill-treatment of disabled persons during the provision of healthcare in hospitals (in somatic medicine). Although such care is not directly provided in the facility depriving liberty, due to the failure of communication by the health care worker, in the practise the “not cooperating” person is often chained up and thus his liberty deprived. The NPM OCPD also sets the task to monitor the situation in somatic medicine and make recommendations of direct involvement of social workers in hospitals.

In 2024 the NPM OCPD plans to visit also places which have already been forwarded the reports and measures imposed in order to find the implementation of these measures in the practise. At the same time, each facility will be offered the option to consult the eventual problems encountered during the implementation of the imposed measures.

As for education, the NPM planned educational activities in cooperation for example with the Judicial Academy of the SR with which the OCPD signed in 2023 a Memorandum of Cooperation.

As for the interim functioning of the NPM OCPD, in 2024 it will be necessary to also focus on the interim development and building of capacities, concretely, on the completion of a strong and stable institution with employees with the required expert knowledge – occupation of positions and material equipment of the NPM OCPD team.

4.3 Commissioner for Children

In 2024 the NPM OCCH will primarily conduct systematic visits at places under its competence to identify the possible risks and uncover early signs of the situation in the facilities to possibly grow into an ill-treatment. The aim of the NPM OCCH is not to resolve individual failures but to analyse the fundamental causes of violation of the children’s rights. Ill-treatment can be also a result of external factors and therefore it will be necessary within the NPM OCCH to analyse beside the found shortcomings also the legal framework, the competences of the involved subjects and point out systemic shortcomings and recommend remedies.

During monitoring activity, the NPM OCCH focuses also on the situation and conditions of children in re-educational facilities which according to the information about the actual activity of the Commissioner and the involved State institutions fail to meet their purpose and the rights of the children are collectively violated. NPM OCCH will work on identifying systemic shortcomings in these facilities and recommend remedy options, even within the newly created working group under the competence of the Ministry of Education, Research, Development and Youth of the SR.

Within the NPM OCCH, the Commissioner is interested in using as one of the fundamental means of prevention of ill-treatment also the education and lecturing activity. In line with the aforesaid facts, the NPM OCCH plans in 2024 to start participating at the creation of the system of education for interested subjects in the field of care for children placed in facilities. The educational activity will be targeted on the spreading of examples from good practise which the NPM OCCH will collect systematically and analyse them, in order to implement them into the practise.

Long term priorities of the NPM OCCH include also to create quality standards of relations between the children and the employees in the respective facilities and future educative distribution of information to prevent ill-treatment.