

# Action Review 2022

National Mechanism  
for the Prevention of Torture  
and other Cruel, Inhuman  
or Degrading Treatment or Punishment



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National Mechanism  
for the Prevention of Torture  
and other Cruel, Inhuman  
or Degrading Treatment or Punishment



*Action Review 2022*

ACTION REVIEW 2022  
NATIONAL MECHANISM FOR THE PREVENTION OF TORTURE  
AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

*The Action Review 2021 was prepared with the contribution of the staff of the Office of the Commissioner for Administration and the Protection of Human Rights, dealing with issues regarding the Commissioner's work and actions in her capacity as a National Mechanism for the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.*

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**Επίτροπος διοικήσεως**  
& προστασίας ανθρωπίνων δικαιωμάτων

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## *2. Introductory Note*



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## *2. Introductory Note*

The right of a person not to be subjected to torture and to inhuman or degrading treatment or punishment, is a right fully protected in every democratic society and the only right that does not admit of any limitation, characterized by international law as a crime against humanity.



In this context and during 2022, our actions as the National Mechanism for the Prevention of Torture (NPM) focused on ensuring the rights of all persons deprived or likely to be deprived of their freedom.

Therefore, we continued our visits to places where people under restriction live or are accommodated, to prevent any reductions in their rights due to the pandemic, to protect them from any inhuman or degrading treatment and to maintain appropriate and dignified living conditions in these places.

Indicatively, in 2022, visits were made to the Central Prisons, the Pournara Reception Center in Kokkinotrimithia, as well as the detention area at Larnaca Airport where people, who were not allowed to enter the Republic of Cyprus, are confined.

Relevant Reports were submitted with recommendations to be implemented, to ensure the residing people's human rights.



Maria Stylianou-Lottides

Commissioner for Administration  
and the Protection of Human Rights

National Preventive Mechanism





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### *3. Legal Framework/Responsibilities*



### *3. Legal Framework/Responsibilities*

In 2009, the Ombudsman's competences were further strengthened, with his/her selection as the National Agency for the Prevention of Torture.

Specifically, the Republic of Cyprus, in addition to ratifying the United Nations Convention against Torture, also ratified the Optional Protocol with Law L. 2(III)/2009, of March 27, 2009. The purpose of the Optional Protocol was to create a system of regular visits, at international and national level, to places of deprivation or restriction of personal freedom, with the main aim to prevent torture.

At the international level, a ten-member Subcommittee on the Prevention of Torture was created, in which member states must allow visits to places of deprivation of liberty and provide all necessary information, while the Subcommittee has the task of advising and supports national prevention mechanisms.

At the national level, the National Mechanism for the Prevention of Torture was established, which was entrusted to the Ombudsman, due to the independence of the Institution. In particular, based on Law L. 2(III)/2009:

- The Ombudsman is designated as the national visiting Body and is authorized to freely visit, at regular intervals, the places of detention, with or without written notification, in order to check compliance with the provisions of the Convention. During his/her visits, the Ombudsman is entitled to have free access to all premises and facilities of each place of detention and to have confidential one-on-one interviews with any person he/she deems appropriate.
- The competent State Authorities are required to provide the Ombudsman with the information referred to in the Protocol.

- ✿ The Ombudsman may submit, to each Authority responsible for a place of detention, recommendations and reports, while subsequently the competent Authority must submit a report on the measures taken on the basis of the report or recommendations submitted to it.
- ✿ The Ombudsman is authorized to submit suggestions for improving the legislation and to express opinions in the House of Representatives during the examination of relevant bills.
- ✿ The Ombudsman must bring to the attention of the Attorney General of the Republic and the Independent Authority to Investigate Allegations and Complaints against the Police, any allegations of human rights violations by detainees.
- ✿ It is foreseen that the Ombudsman has the necessary staff in accordance with the provisions of the Laws on the Commissioner for Administration or any additional staff. The qualifications and terms of service of the officials are determined in Regulations approved by the Council of Ministers and the House of Representatives.

In 2020 following the Ombudsman's initiative and efforts to align with the recommendations of the Committee for the Prevention of Torture of the Council of Europe (CPT), the House of Representatives passed Law L. 3(III)/2020 which amended Law 2(III)/2009 and the Ombudsman may now conduct visits freely, unhindered and unannounced to any place or places of detention of his/her own choice.

It is therefore noted that until the application of the above-mentioned amendment of Law 2(III)/2009, all visits by the Ombudsman and/or the Officers of his/her Office under his/her authority as the National Mechanism for the Prevention of Torture, without exception, are again carried out freely in practice and without the prior notification/information of the competent authorities.

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#### *4. Main Actions in 2022*



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#### *4. Main Actions in 2021*

- ✿ On February 14, 2022, a visit was made to the Pournara Reception Center in Kokkinotrimithia.
- ✿ On February 10, 2022, the Commissioner and Officers of the Mechanism had a meeting with the Lawyer of the Association for the Protection of the Rights of Prisoners and Released Persons, Mr. Alexandros Clerides for a general discussion on issues related to human rights and in particular the possibility of "immediate" compensation in case of their violation.
- ✿ On March 9, 2022, a visit was made to the "HOPE FOR CHILDREN" CRC Policy Center in Nicosia.
- ✿ Report dated March 10, 2022, in relation to the visit dated February 14, 2022, to the Pournara Reception Center in Kokkinotrimithia.
- ✿ On March 30, 2022, the Commissioner and Officers of the Mechanism had a meeting with representatives of the Council of Europe, with the aim of exchanging views regarding human rights and the Rule of Law.
- ✿ On May 2, 2022, Officers of the Mechanism participated in a meeting held at the Police Headquarters by the Assistant Chief of Police and issues about to the procedures related to the Psychiatric Hospitalization Law were discussed.

- ✿ Intervention dated June 26, 2022, on the occasion of the International Day in Support of Victims of Torture.
- ✿ On July 19, 2022, a visit was made to the detention area at Larnaca Airport where people who were not allowed to enter the Republic of Cyprus are confined.
- ✿ Report dated July 22, 2022, regarding the visits on February 26, 2020 and July 19, 2022, to the detention area at Larnaca Airport where people who were not allowed to enter the Republic of Cyprus are confined.
- ✿ On October 5 & 6, 2022, the Head of the Mechanism participated in the conference “Monitoring the Rights of Specific Groups of People Deprived of their Liberty”, which was organized by the Directorate General I – Human Rights and Rule of Law of the Council of Europe (CoE), in Strasbourg.
- ✿ On November 17, a meeting was held with the representative of the UN High Commissioner for Refugees in Cyprus, Mrs. Katja Saha Savarimuthu. The discussion focused on the Pournara Reception Center in Kokkinotrimithia and, in particular, on the living conditions of unaccompanied minors and other vulnerable persons, on issues related to the safety of those staying in the center, and the center's hygiene and infrastructure etc.
- ✿ Report dated November 15, 2022 regarding the visits that took place at the Central Prisons in the period 2020-2022.
- ✿ As every year, throughout 2022 the Mechanism's visits continued at the Central Prisons.

 *Visit at the Pournara Reception Center in Kokkinotrimithia*

The Commissioner for Administration and the Protection of Human Rights, under her responsibilities as National Human Rights Institution and National Mechanism for the Prevention of Torture, as well as Officers of her Office, made a surprise visit to the Pournara Reception Center in the afternoon of Monday, February 14, 2022.



From the visit, the following were found indicatively:

- The overpopulation of the Center, with the number of residents being almost twice its capacity and the uncontrolled migration flows.
- The chain problems that arise in the daily living of the residents due to overpopulation

- The presence of unaccompanied minors at the Center for a period of time that exceeds what is reasonably permissible, and the issues arising in relation to the responsibility of the Welfare Office



All of the findings and conclusions of the Commissioner, with specific recommendations, formed the content of the third report in a row within 20 months through on-site visits during the pandemic.

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## *5. Major Reports & Interventions*



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## *5. Major Reports & Interventions*

### *Report regarding the visit of February 14<sup>th</sup>, 2022, at the "Pournara" Center for Temporary Reception and Accommodation of Immigrants, in Kokkinotrimithia*

The purpose of the visit, which was the third one in the last twenty months, was, among other things, to ascertain the living conditions of the persons residing in the Center, in view of the information about overcrowding and, in particular, of accommodation of unaccompanied minors in the Center.

Also, on March 9, 2022, following a briefing from the UNHCR that a group of about 50 unaccompanied minors and/or alleged minors left the Center and went to a Children's Shelter in Nicosia, spending the night outside, the Commissioner visited the site and had a private conversation with the children.

From the visit to the Center, as well as from the on-site visit to the Children's Shelter, the following conclusions were made:

- In the Center there are unaccompanied minors and/or alleged minors who stay there for a long period of time, until it is possible to determine their age, while in some cases, many of them, although they were obviously minors and have been judged by the Asylum Service as minors, were still at the Center.
- This fact is not in line with the international legal framework concerning the protection of the rights of the child and it also deprives these minors and/or alleged minors of the benefit of the doubt, on the basis of which

they should be accepted. as indeed minors and they should be treated appropriately.

- In several cases, even though the relevant procedures have been completed, the children remain at the Center because there is no other suitable place to be transferred to. However, this is not in line with the international standards, according to which, States should ensure their hospitality in places suitable for their age, such as residences and foster families.
- Apart from the existence of a playground and outdoor sports area, the general living conditions in the Center do not constitute the appropriate environment for the proper and smooth living and development of children and the safeguarding of their interests.
- The absence of any other forms of employment and entertainment for these children, as well as the extension of their confinement and incarceration in the Center and the uncertainty regarding the time of their departure from it and their movement to another place, inevitably affect the mental and their emotional state
- The lack of appropriate structures outside the Center is not a sufficient reason to continue their confinement, while, at the same time, the conditions of hospitality in the Center violate their rights and can be inhuman and degrading treatment, due to the living conditions of the overcrowding and the inadequacy of the Center's infrastructure.
- All actions concerning children applying for asylum should be governed by a spirit of caring with the primary aim of ensuring the best interests of the child, while the vulnerability of their character should always take precedence over their status or characterization. as an "irregular foreigner".

- The length of stay of the children, including unaccompanied children, in reception and identification centers should be limited to the time required for the initial registration and evaluation of their cases and not more than the maximum duration provided by law, which does not apply in this case.
- The overpopulation in the Center leads to the degradation of the human rights of the residents and a minimum level of decent living conditions is not guaranteed.
- Since it has long been clear that its capacity of the Center is not sufficient to meet the increased migratory flows, the issue should have been managed in a holistic manner in order to prevent the deterioration of the living conditions of those who end up being hosted in it.
- The overcrowding of a large number of people in a prefabricated house or tent, which, even in the case of minors, are forced to sleep on the floor, cannot be described as anything other than inhuman and degrading treatment, as these are degrading conditions. every notion of human dignity.
- Security at night, is insufficient, due to the large number of residents in tents and prefabricated houses that are very close to each other, and due to the absence of any lighting. Furthermore, the unimpeded entry of persons into the Center can also pose a danger and threat to the safety of those who live in it.

In relation to the above, it was pointed out that according to the established case law of the European Court of Human Rights (ECHR), poor and inadequate living conditions in terms of hygiene and infrastructure, violate the concept of human dignity and result in degrading treatment contrary to Article 3 of the ECHR.



Similarly, the United Nations High Commissioner for Refugees (UNHCR) emphasizes that any restriction on asylum seekers should be carefully delineated and that there should be open structures and humane reception conditions. ensuring the security, dignity and respect of their human rights.

Furthermore, even in cases where persons are housed in a reception or hospitality center which does not appear to be a place of detention, *"...may, depending on the nature of the restrictions on their freedom of movement and the cumulative effect of these restrictions, be deemed to have been deprived of their liberty under international human rights law..."* Whether such restrictions are tantamount to deprivation of liberty shall take into account, inter alia, *"...the type of restrictions imposed, their duration, their effects on the individual and the manner in which the measure is implemented"*.

In any case, the duration of the detention should be as short as possible, as its excessive duration or any uncertainty as to its duration may constitute cruel, inhuman or degrading treatment, which is something that is not implemented in this case, since the duration of stay at the Center is several months.



In view of the above, the following suggestions were submitted:

- The procedures for locating and/or creating adequate structures and/or other accommodation should proceed for the immediate and without further delay, movement of all unaccompanied minors and/or alleged minors from the Center. Their further stay in the Center is not appropriate, because of the conditions prevailing in the

Center and because unaccompanied and/or alleged unaccompanied minors should not be deprived of their liberty and living in detention-like conditions, such as closed accommodation centers and in conditions that degrade their dignity, and constitute inhuman treatment.

- Welfare Services should stop questioning the findings of the Asylum Service's age assessment and, in view of the benefit of the doubt that should govern decisions concerning children, take the necessary steps for immediate relocation outside the Center, even when they are not certain about their age or the age has not yet been determined.
- Consequently, on the one hand, the procedures for determining their age should be completed in a timely manner, as well as the examination of their asylum applications, and on the other hand, regardless of these procedures, they should move to places outside the Center as soon as possible. For this purpose, there should be direct cooperation of the Asylum Service with the Social Welfare Services in terms of the adoption of the findings of the Asylum Service.
- The use of medical examination as a way of determining / assessing the age of unaccompanied minors and/or alleged minors should not be the rule but the last resort to achieve this goal.
- To all minors and/or alleged minors should be recognized the benefit of the doubt for their age, especially when it comes to children who are clearly minors.
- The Ministry of Social Welfare to address immediately the children who remain outside the Children's Shelter in order to ensure their best interest and taking into account their wishes, as provided in the Convention on the Rights of the Child.



- During the whole time that the unaccompanied and/or alleged unaccompanied minors stay in the Center, to be provided with the necessary care and amenities appropriate to their age, while in the last case that their stay in it exceeds 90 days, although this should be avoided, their access to education should be ensured.
- When a minor and/or alleged minor enters the Center, to be placed immediately, if this is not already done, under the responsibility and protection of the Ministry of Social Welfare, so that it is possible to ensure his/her best interests.
- To immediately and without any delay take the necessary measures and actions to solve the problem of inadequacy in terms of hot water supply so that all residents of the Center have unobstructed access to hot water.
- To take the necessary actions to solve the problems observed with the sewerage systems of the Center.
- To solve as soon as possible the problem of non-lighting of all areas of the Center during the night, in order to upgrade the sense of security of the residents during the night, as well as to make it easier to detect and prevent any unpleasant incidents.
- Although it is acknowledged that migration flows have increased and the competent authorities are no longer able to respond in a timely manner to the examination of the submitted applications, efforts should be made to process them as quickly as possible, so that the persons concerned can be moved outside of the Center.
- Make every effort to improve all the infrastructure in the Center, as well as not to force any person to sleep on the floor.

The Report was submitted to the Minister of Interior and the Deputy Minister of Social Welfare, for the coordination between them and the taking of the necessary measures, based on their responsibilities, for the immediate and without delay implementation of the aforementioned suggestions.

### *Implementation of recommendations*

*Following Commissioner's Report, the President of the Republic visited the Reception Center in Kokkinotrimithia. After the visit, the President held a meeting with all involved authorities, including the Commissioner, to discuss the living conditions in the Center and the presence of unaccompanied minors and/or alleged minors in the Center. After the meeting, the transfer of unaccompanied minors and/or alleged minors to places outside the Center, took place.*

*In total, between March and April 2022, more than 160 unaccompanied minors were transferred to hotels, It was also announced that a "Protection Center" exclusively for unaccompanied minors, with a capacity of 120-150 persons, will be created.*

*Additionally, accommodation places for 40 persons were created in Nicosia and Larnaca districts and a tender was launched for the creation of a Protection Centre exclusively for minors seeking asylum, with a capacity of at least 120-150 persons.*

*Furthermore:*

- In order to speed up the processing of procedures, additional office space was placed in the Centre and the staff of the Aliens and Immigration Service, FRONTEX Police and EUROPOL was increased.*

- *Measures were taken to extend the lighting around the perimeter of the Centre and in the quarantine area.*
- *The construction of a second fence around the perimeter of the Centre was rolled out to make it more difficult to breach and to enhance security.*
- *The number of Social Services Officers was increased by hiring temporary employees*
- *A study was carried out by the Nicosia Sewerage Board to connect the Centre to the sewerage system and solve the problem with the drainage system*
- *A new safe zone was put into operation within the Center.*

*Visits on 26 February 2020 and 19 July 2022 to the detention area at Larnaca Airport where people who were denied entry to the Republic of Cyprus are confined<sup>1</sup>*

The specific area is located within the arrivals area at Larnaca Airport and is under the control of the Aliens and Immigration Service of the Police working at Larnaca Airport.

Passengers entering the Republic through Larnaca airport who are refused entry at the boarder (immigration control Larnaca Airport) are transferred to this area and are held there until their return flight is arranged to the destination from which they came.

From the visits at the site in question, it was found that its infrastructure is at a satisfactory level, but there is no courtyard area, which, in addition to the fact that the people confined do not stay only for 24 hours but for several days, implies that these people remain for several days indoors without going outside and having access to fresh air.

Consequently, the specific conditions are only acceptable for a short-term of arrest and not for several days.

Regarding the feeding of the detainees, it was established that they are offered meals based on vouchers provided by the respective airline they came with. Usually are given 3 vouchers of 7 euros per day and some low-cost airlines give only one voucher worth 10 euros per day.

The competent authority does not provide a catering service and in several cases the Police officers working on site, offer food to the detainees at their own expense or even the company that manages the airport site provides any food that is left during the evening hours. In addition, the Police often

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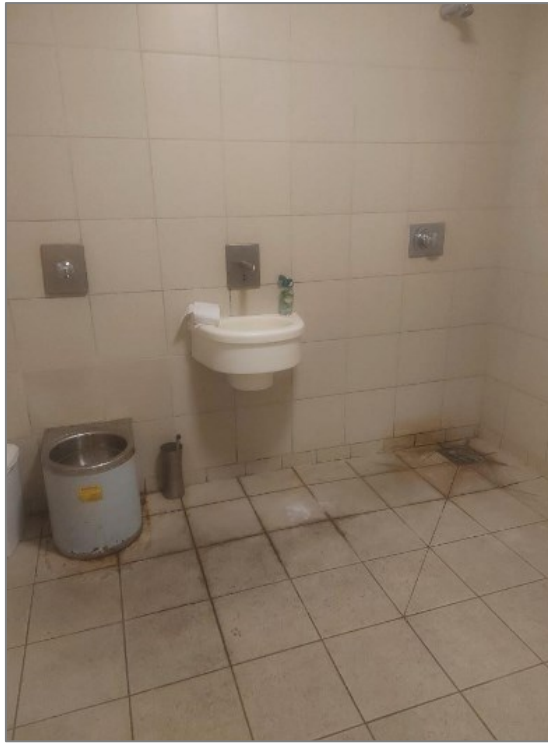
1 N.P.M 7/2022 and C/N 320/2020 dated July 22, 2022

provide the prisoners with food which the prisoners themselves buy at their own expense.



It was also pointed out that it is extremely important to ensure the rights of the detainees, as well as the orderly operation of the area, to faithfully keep a detailed record/calendar for all the actions that take place inside the area. The file should include, at a minimum, all the elements included in the books kept within the Detention.

In particular, the file should include records of any incidents of violence by police officers towards detainees or between detainees, with full reference to the events that took place, the reasons and the manner in which violence was used (in the case of police use) and any actions taken or should be done after the incident.



In view of the above, the following recommendations were submitted:

- The detention of persons who have not been allowed to enter the Republic and are detained for the purpose of their return, at the airport, should not exceed 24 hours, since the area in question is not designed for this purpose, otherwise it ends in inhumane and degrading treatment according to Article 3 of the ECHR.
- The competent Authority to take care of the provision of adequate feeding to the detainees.
- A detailed record/diary should be kept of all actions taken within the airport detention area.

The Report was submitted to the Minister of Justice and Public Order and the Chief of Police.

### Implementation of recommendations

After submitting the Report, we were informed that:

- The Police, assessing its needs, decided that the form entitled "Refusal of Entry at the Boarder", which is given to passengers for the purpose of informing them of the reasons for refusal of entry and their right to appeal, should be translated into French, Arabic, Russian, Georgian, Indian, Israeli, Persian, Pakistani, Bengali and Vietnamese. Therefore, they relied on translators included in the Register of Sworn Translators and the Asylum Service. The form has already been translated into Russian, Chinese, Indian (Urdu, Punjabi, Hindi) languages and is expected to be translated into other languages.
- The translated forms were sent to the Aliens and Immigration Service (AIS), for use where necessary, for the purposes of informing passengers of the reasons for denial of entry and their right to appeal.
- The Police proceeded to prepare a form, entitled "Individual Card of Passengers who are not allowed to enter the Republic (Refused Landing) and are placed in a Restricted Area", which aims to ensure the rights of the people placed in the Restricted Area and the orderly operation of the are. Regarding the use of the form, AIS (Passport Control Center of Larnaca and Paphos Airports) was given instructions in order to keep it in a safe place / space, to which unauthorized persons do not have access. Furthermore, the destruction of the form should be done in accordance with the provisions of paragraph 2(4) of Police Order 1/45 "Destruction of Documents".

*Report regarding visits made to the Central Prisons during the period 2020 – 2022<sup>2</sup>*

In the period 2020-2022, we carried out more than fifteen (15) unannounced visits to the Central Prisons, for the holistic examination and investigation of problems that may arise in a place where people are deprived of their freedom, but also after the submission of individual complaints.

As part of the visits, we had meetings with the Directorate of Central Prisons with Wardens and prisoners and discussed various issues related to the smooth and orderly operation of the prisons, as well as any problems that arise and concern, on the one hand, the Directorate of Central Prisons, and on the other hand, the prisoners who live in them.

Furthermore, all wards of the Central Prisons were inspected, prisoner files were studied/inspected (sampled) and confidential interviews were conducted with a significant number of prisoners from all the wards.

The main findings from our visits, as reflected in the report we submitted in October 2022, were the following:

→ *Disciplinary offenses – Isolation of prisoners*

It has been found that prisoners are placed in confinement or solitary confinement (typically) for days while investigating possible disciplinary offences, with nothing ultimately being brought against them as their case is never tried resulting in the punitive measure of solitary confinement being imposed on them without any sufficient justification which can be documented by the content of the personal files.

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<sup>2</sup> N.P.M 1.01.02 etc, dated November 16, 2022



Therefore, it was pointed out that partial or relative solitary confinement, i.e. the prohibition of contact with other prisoners for reasons of security, order and protection, is not, according to the ECHR, in itself a form of inhuman or degrading punishment or treatment, but, however, the consequences of isolation on the prisoner's mental health are extremely adverse and for this reason it should be a measure of last resort and applied only in exceptional cases and for a minimum period of time.

In a 2018 case, the CPT expressed concerns about the power of senior prison officials to confine a prisoner to a cell for up to six days to investigate disciplinary offences, and noted that the practice was routinely used and perceived by prisoners as punishment, even though they had not been previously found guilty of the offense under investigation.

According to the CPT, confining prisoners to a cell on suspicion of committing a disciplinary offense and before they are formally charged, should not last more than a few hours or be done systematically.

As, on the same subject, is noted in the Council of Europe Ministerial Recommendation on European Prison Rules, solitary confinement should not be imposed as a disciplinary penalty, except in exceptional cases and for a specified period of time, which shall be as small as possible.<sup>3</sup>

Furthermore, in any case, according to the (Revised) European Prison Rules, at least one hour of outdoor exercise should be ensured for each prisoner in solitary confinement, they should be provided with reading material, have at least two hours of substantial human contact per day and have daily visits, including visits by the Director of Prisons or a member of staff acting on his behalf.

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<sup>3</sup> Recommendation Rec (2006)2-rev of the Committee of Ministers to member States on the European Prison Rules

Consequently, the use of solitary confinement for disciplinary reasons should only be done in exceptional cases and not be the norm, as it seems to be the case today, its duration should not be limited to just a few hours and the prisoners on whom it is imposed not to be deprived of their other rights, such as external exercise, human contact, submission of complaints.

The principle of proportionality should also be taken into account in every case so that the measures taken, in this case the confinement of prisoners in a cell, are consistent and do not exceed what is necessary to achieve the intended purpose but above all to ensure that the limitation of rights of prisoners by isolating them, not amounting to punishing them in advance for an act or action which in the end they may not have committed, and for which they may never be tried.

→ ***Building Facilities***

In relation to the building facilities, it was pointed out that even though the majority of them are outdated, this should not be an excuse for degrading the rights of the prisoners in the Central Prisons and not ensuring decent conditions of their detention.

In particular, the material conditions should meet the minimum international standards and elementary issues, so that the absence of a separate dining room, closets and laundry in some Wings, should not be degraded but resolved. In short, every possible effort should be made, for the upgrading and continuous improvement of all building facilities without exception.

Some other issues that may seem trivial, such as the lack of privacy for inmates using the toilet in some wards due to the configuration of the cells, should be addressed quickly, either with the partition wall blocking their view from the door of the cell or, if this is deemed not feasible, even by erecting other toilets in the Ward apart from the cells.

And this is because, the non-maintenance of privacy when using the toilets due to their non-separation from the rest of the prison areas has been repeatedly characterized by the European Court of Human Rights (ECtHR) as degrading treatment, as it may degrade the dignity of prisoners due to their exposure before the eyes of their fellow prisoners which may cause them feelings of distress and humiliation.

→ *Overpopulation*

Regarding the issue of overcrowding, it was pointed out that according to the ECHR, *"...in some cases, when prison overcrowding reaches a certain level, the lack of space in a penitentiary may be the central element to be taken into account in the assessment of the compliance of a given situation with Article 3...in cases where (the ECHR) was faced with a clear case of overpopulation, it held that this element, itself, was sufficient to establish a violation of Article 3 of the Convention. As a general rule, these were cases where the personal space provided to an applicant was less than 3 sq.m.."*<sup>4</sup>

Consequently, cases of severe overcrowding in penitentiary institutions, which confine prisoners to spaces of less than 3 square meters, may well be understood as amounting to conditions of inhuman and degrading treatment for the prisoners residing therein, in violation of Article 3 of European Convention on Human Rights, according to the ECHR.

→ *Right to Contact*

In relation to the prisoners' right to communicate, it was pointed out that the exercise of the right to communicate and correspond is of crucial importance for persons serving a sentence of deprivation of their liberty, as it constitutes one of the few means of contact and communication they have with the wider society, as well as with my Office for the purposes

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<sup>4</sup> Nisiotis v. Greece, 10/2/2011, par. 38-39

of filing complaints and/or communicating any matter that may concern them.

As it was found from our visits, in several Wards, the complaint box to my Office is directly exposed to the security cameras. This may affect the privacy of inmates' communications with my Office and/or create the possibility of censorship.

Also, the presence of cameras above the complaint boxes and/or their exposure to them, may deter inmates from making any complaint to my Office, fearing possible retaliation or punishment for their action.

In connection with the above, and as in two Wards the complaint boxes were in an unusable condition, it was noted that it might be advisable to replace all the boxes in my Office with new ones, and all keys should be forwarded to my Office only.

Prisoners' complaints/requests to the Directorate could be handled in a similar way. Hence, instead of being delivered personally by the prisoners to the warders, who, in some cases have complained that they were not ultimately forwarded or delivered to the Directorate, a separate complaint/request box could be placed in each Ward, the contents of which would be recorded and to be delivered to the Directorate.

→ *Prisoner information*

With regard to informing prisoners about their rights and obligations, it is noted that it has been brought to our attention that prisoners (and/or defendants) have not been allowed to carry within the Central Prisons the Prisoner's First Contact Guide prepared by my Office in cooperation with the Association for the Protection of the Rights of Prisoners & Released Persons.

Given that the Guide in question is a tool for informing prisoners about their rights, obligations and the rules of safe

stay in prison, it was pointed out that the Directorate should not allow the repetition of such phenomena, as well as to ensure that the Guide will be available at all times in all the Wards of the Central Prisons so that the prisoners know their rights and obligations to enable their exercise.

→ *Personal files & Inmate Requests*

In some cases, it appeared that prisoner requests were either not forwarded in a timely manner or were not recorded in their personal files.

Since 2018, the CPT has highlighted the Directorate's non-response to prisoners' requests, while, in connection with the non-numbering of the entries in the personal files, questions are raised as to whether all the documents concerning a prisoner without exception are entered in his personal file and, in the same way, if all their requests are taken into account and ultimately considered by the Directorate.

→ *Provision of medical services*

As of 2018, the CPT had raised issues of medical confidentiality, as prison guards had access to detainees' medical records.

As it was found from the visits to the Central Prisons, the specific issue seems to still exist, as the prison staff have direct access to the medical files of the prisoners, while the configuration of their examination area does not, in any way, ensure medical confidentiality.

Consequently, the specific matter needs to be immediately addressed and settled by the Directorate of Central Prisons.

→ ***Persons with disabilities***

In relation to the detention of persons with disabilities in Prisons, it was pointed out that according to the UN Convention on the Rights of Persons with Disabilities, ratified by the Republic of Cyprus in 2011<sup>5</sup>, States "...ensure that if persons with disabilities are deprived of their liberty through any process, are entitled, on an equal basis with others, to guarantees under international human rights law and to be treated in accordance with the purposes and principles of the Convention...".<sup>6</sup>

The Council of Europe, in a relevant Manual issued in 2016, states that in order to ensure the equal treatment of prisoners with disabilities and to protect their human rights, Prison Authorities should develop specific policies and strategies for the addressing their needs, which should prioritize issues such as, inter alia, staff training, health care and access to services.

Based on the relevant jurisprudence of the ECHR, which is referred to in the Manual, the detention of a person with a severe disability in conditions where they cannot go to the toilet alone or keep themselves clean without difficulty, constitutes degrading treatment and consequently contravenes Article 3 of the European Convention on Human Rights, according to which "*No one shall be subjected to torture or to inhuman and degrading treatment or punishment*".

Consequently, not addressing the issue of providing care to detained persons with disabilities, particularly when it comes to persons who cannot take care of themselves, by providing these persons with the necessary safeguards that will ensure their decent accommodation in Central Prisons, beyond that it does not ensure their rights, as they are guaranteed by the

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<sup>5</sup> Convention on the Rights of Persons with Disabilities and Other Related Matters (Enacting) Law 8(III)/2011

<sup>6</sup> Article 14 of the Convention

above provisions of the Convention, will very likely result in their inhuman and degrading treatment, in violation of Article 3 of the European Convention on Human Rights.

→ *Merger of litigants - prisoners*

Regarding the integration of sub-litigants with prisoners which, as it was found, is applied in the Women's Wing, apart from being contrary to the relevant recommendations of the CPT, it contributes to the direct association of sub-litigants with people who have already been sentenced, with all the negative consequences that this may bring them.

In particular, apart from the fact that such a thing is not in line with international standards and recommendations, it can be a brake on the expanded rights that undertrials can enjoy in prisons compared to convicts, as well as exposing them to the wider culture that may prevail inside the prisons which they are not familiar with.

The integration of defendants with prisoners creates particularly aggravating psychological conditions for defendants who may be persons without any involvement in serious criminal offenses, with all the consequent consequences, both during their stay in prisons and in their broader psycho-emotional evolution.

→ *Nutrition*

Regarding the diet and the quality of the food, no complaints were expressed by the prisoners, except of the repeated complaints about the timing of the meals, especially in the summer season when dinner is served very early.

Therefore, it was noted that the meal times may need to be revised, possibly by varying the time of dinner in the summer months and/or by providing an additional snack to prisoners during those months.

→ *Exercise – Activities*

Regarding the creative occupation of prisoners/undertrials, it is reiterated that in 2018, the CPT had noted that prisoners remained inactive for a big part of the day, without access to a wide range of activities.

As found from our visits, a large number of prisoners still do not have access to any creative employment (Wards 10, 4 and 4B), as well as the sub-trial, while the sub-trial as well as the prisoners in Wards 4 and 4B are not provided with either any education with their participation in prison schools.

Although the position of the Directorate is that the defendants do not participate in the educational programs due to the short period of time they remain in the Central Prisons which does not allow them to join the school, this should not constitute a brake for any other form of creative and constructive occupation, both the defendants and the rest of the prisoners that today do not have access to anything creative as there are defendants who are still in detention for a long time.

→ *Making visits*

Regarding the carrying out of visits, it was pointed out that, in individual cases, it has been observed from the examination of complaints against the Prisons Department, that relatives who came into confrontation and/or showed indecent behavior towards the Directorate and members of the staff of the Prisons Department and/or refused to follow or comply with security rules, they were not allowed to visit prisons unless they apologized in letter.

On this it was noted that according to ART (Association for Prevention of Torture), family life is a fundamental human right and in the context of detention, the visits of prisoners by their family members should not be perceived as a privilege which can removed as a disciplinary measure.



As the CPT points out in relation to the visits received by prisoners, the imposition of any restrictions on them should be based solely on very important security issues.<sup>7</sup>

Consequently, the imposition of this measure should be limited only to exceptional cases where serious security issues arise, so that prisoners are not deprived of their fundamental human right to contact their family members.

From the findings of the visits, during which all premises of the Central Prisons were inspected, interviews were conducted with prisoners and personal files were inspected, the following recommendations were made for the further improvement of the conditions of detention and treatment of prisoners:

- Ending the use of the measure of solitary confinement of prisoners and limiting it to only exceptional cases where and when the nature and circumstances of the investigation of a disciplinary offense actually require it and for the minimum possible time, which should not exceed a few hours and not days, as is usually the case today.
- In any case, the use of the measure of isolation should be done exclusively based on necessity and the principle of proportionality.
- Modernization, simplification and acceleration of the proceedings for the trial of disciplinary offenses and the faithful implementation, in every case, of the prescribed procedures, with a view to transparency and safeguarding the rights of prisoners.

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<sup>7</sup> 2nd General Report on the CPT's activities [CPT/Inf (92) 3]

- Creation of a register/database where all cases of use of the isolation measure will be recorded, for purposes of effective control.
- When the disciplinary penalty of solitary confinement is imposed, prisoners should not be deprived of their other rights, such as outdoor exercise, human contact, filing complaints, etc.
- Replacement of the complaint boxes to my Office with new ones, the keys of which will be held only by my Office.
- Taking the necessary steps to remove any factors that may discourage the use of complaint boxes by prisoners, such as exposing them to security cameras, to ensure, in all cases, the confidentiality of prisoners' communications with my Office; as well as to remove any suspicions of possible censorship.
- Modernization of the File and immediate numbering of all documents registered in the personal files of the prisoners, to avoid any suspicions that documents and/or letters, intentionally and/or negligently, are not registered in them with the consequence that they provide insufficient information about the prisoners.
- Track substantial measures to address the problem of overcrowding holistically and, within specified timescales, as, due to its intensity, it may result in inhumane and degrading treatment for the prisoners who experience it.
- The competent Authority should consider whether, due to the overcrowding in the Central Prisons, it is appropriate to reinstate the previous regulations in relation to foreigners who are detained due to conviction or awaiting trial, either for illegal stay in the Republic, or for forging travel documents.

- Finding an alternative way of submitting prisoners' requests to the Directorate, so that, on the one hand, their timely examination is ensured, and, on the other hand, to remove any doubts that the prison guards actually forward them to the Directorate. In addition, consideration could be given to the installation of special boxes, modeled on the corresponding boxes that exist for submitting complaints to my Office.
- Promotion of the immediate availability in all Wards of the Central Prisons of the Prisoner's First Contact Guide so that at any time prisoners, new arrivals or not, are aware of their rights and obligations.
- Ending the co-housing of undertrials with convicted prisoners, as is the case in the Women's Ward, and in any case, making maximum efforts to separate them.
- Ensuring medical privacy by taking specific measures and/or tools aimed at preventing anyone from accessing the medical files and diversifying the examination area for prisoners, as well as strengthening the nursing staff.
- Ending the practice of misbehaving visitors, so that prisoners are not deprived of their inalienable right to communicate with their family due to external factors for which they are not responsible.
- Find a solution and final settlement, as soon as possible, of the problem of not providing care to people with disabilities detained in Central Prisons who are unable to care for themselves, after consultation with all concerned.
- Taking measures to ensure the privacy of all prisoners when using the toilets, either by conversions within the

cells or, when this is not possible, by the construction of new toilets in the specific Wards.

- Removing the camera from the meeting place for prisoners with their lawyers.
- Promotion of the initiation of creative employment activities and the development of a specific program for the prisoners in Ward 10, as well as the residents/subjugators in Wards 5A & 5B.
- Finding a way for juvenile prisoners to receive their meals in an area outside the Ward and the creation of a special area for this purpose also for the prisoners in Ward 4.
- Ensuring that the quality of living conditions of prisoners in Ward 4A is not degraded, by examining complaints about smoking inside the Ward and installing lockers for prisoners' personal belongings, as well as installing laundry facilities.
- Ensuring visual contact with the prisoners placed in the security cell of Ward 4 at all times.
- Examining whether it is appropriate to vary the timing of meals to prisoners, particularly during the summer season when, according to some prisoners, dinner is served too early. Therefore, provision of a pre- or post-dinner snack could be considered.

*Intervention on the occasion of the International Day in Support of Victims of Torture<sup>8</sup>*

Respect for human rights and the total prohibition and abstinence from practices and actions that amount to torture and inhuman or degrading treatment or punishment are the constituent elements of a Rule of Law.

June 26 was established in 1998 by the UN General Assembly as the United Nations International Day in Support of Victims of Torture.

Torture is, under international law, a crime against humanity with an absolute prohibition, which binds all members of the international community, regardless of whether they have ratified international treaties that expressly prohibit torture or not.

Article 3 of the European Convention on Human Rights expressly prohibits torture and inhuman or degrading treatment or punishment and establishes this right as absolute, in relation to which no deviation can be allowed and its protection is under no conditions.

The Commissioner for the Administration and Protection of Human Rights within the framework of his responsibilities as the National Torture Prevention Mechanism (NPM) does regularly and unannounced visits to places where people are deprived or likely to be deprived of their freedom, with a view to preventing torture and any form of inhuman or degrading treatment or punishment.

The close and systematic monitoring of places of detention or confinement to prevent torture and other forms of cruel, inhuman and degrading treatment is our highest priority.

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<sup>8</sup> E.M.P.T. 2/2022 dated June 26, 2022

To this end, frequent and unannounced visits are made to the Central Prisons, Police Detention Centers, the reception and accommodation areas for undocumented immigrants, the Athalassa Psychiatric Hospital, shelters for the elderly and disabled and, in general, any place where people are deprived or likely to be deprived of their freedom, to identify any ill-treatment phenomena and submit recommendations and suggestions to the competent authorities, for their removal and termination.

With a view to preventing and safeguarding the rights of persons deprived of their freedom, we are in open dialogue with the competent authorities.

In this direction in November 2021, we proceeded, based on the powers of the Commissioner as National Mechanism for the Prevention of Torture and National Human Rights Authority, in the publication of the Prisoner's First Contact Guide, in collaboration with the Association of Prisoners and Released Persons, a useful information tool of newly admitted prisoners on the rights, obligations and rules of safe cohabitation in prison.

Conversely, each state must respect and safeguard the inalienable right of all persons under its jurisdiction not to be subjected to torture or to inhuman or degrading treatment or punishment and to ensure the prevention of such conduct.

However, although torture and ill-treatment are prohibited by international law, they remain widespread during armed conflicts.

Therefore, the Director of the Office for Democratic Institutions and Human Rights (OSCE/ODIHR) points out that prisoners of war are at particular risk of torture, even though torture and inhumane treatment of prisoners of war constitute a serious violation of the Geneva Convention.

He also adds that, during armed conflicts women and girls are disproportionately vulnerable to sexual violence, which often

amounts to torture and can, under international law, be perceived as a war crime or a crime against humanity.

In view of the ongoing military conflict in Ukraine, each state must be alert to intervene, respect and protect the rights of all persons within their territory and under their jurisdiction, so that they do not subject to torture or inhuman or degrading treatment or punishment and to ensure the protection of every person from inhuman treatment which the dark path of war may conceal.



### *Indicative compliance with previous reports*

- N.P.M 2.07, dated 21/12/2018, regarding the Detention Centers of the Police Station at Pera Chorio Nisou: we were informed that the work of creating an outdoor exercise area / courtyard has been completed by the competent State Services. The area in question has rest equipment (benches and chairs), as well as a canopy, which covers half of the outdoor area, for protection from rain and sun.
- The suggestion that had been made in several reports both in 2020 and 2021 was implemented and after a review of the Police Order 5/5 the Police arranged for an intermediate drink to be given between the three daily meals, which includes milk, instant coffee or tea and sugar. In this way, except from the morning drink, the prisoners will enjoy two additional drinks, one after breakfast and one after lunch.
- Regarding our proposal for creative employment and entertainment for prisoners (N.P.M 2.06, N.P.M 2.11, N.P.M 2.15, N.P.M 2.14) the Police, in collaboration with the Ministry of Education, Culture, Sports and Youth (Cultural Services), secured a large number of books , in various languages (English, Turkish, Romanian, Serbian, Bulgarian, Lithuanian, German, Italian, etc.), in order to supply detention facilities, on a pan-Cypriot basis.



- Implementation of all recommendations Report no. N.P.M 2.13/3 for the Mennogeia Detention Center for Prohibited Immigrants.

Particularly:

- Purchased and installed 4 new 32-inch TVs and 4 new complaint boxes to our Office and the notice boards were updated.
- Under the guidance of the painting teacher, the prisoners, volunteers and police officers curated and artistically decorated the walls in all the Wings.
- Prisoners have the possibility, if they wish and the orderly operation of the Detention Center allows, to use the outdoor exercise area for a longer period of time.
- The Police promoted the recruitment of a psychiatrist, a social worker and a trainer.
- The Police, in consultation with the Mental Health Services, started the preparation of a protocol for the administration of substitute substances at the Mennogeia Center, so that the prisoners are not transferred for this purpose to the Athalassa Hospital.



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ΧΡΟΝΙΑ



**Επίτροπος διοικήσεως**  
& προστασίας ανθρωπίνων δικαιωμάτων

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## *6. Other Actions*



**Επίτροπος διοικήσεως**  
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## 6. Other Actions

### (a) Cooperation with the House of Representatives

#### Parliamentary Committee on Human Rights and Equal Opportunities Between Men and Women

- An officer of the Office participated in a session of the Parliamentary Human Rights Committee, dated May 16, 2022, during which the following topic was discussed: "The recent revelation of the Deputy Ministry of Social Welfare regarding the disappearance of fourteen minor children from the Pournara reception center".


#### Parliamentary Legal Committee

- An officer of the Office participated in a session of the Parliamentary Legal Committee on March 18, 2022, for the discussion of the law proposal "The Criminal Code (Amendment) Law of 2022"
- An officer of the Office participated in a session of the Parliamentary Legal Committee on May 11, 2022, during which the topic: "The Criminal Code (Amendment No. 2) Law of 2022" was discussed.


#### Parliamentary Health Committee

- An officer of the Office participated in a session of the Parliamentary Health Committee on October 6, 2022, to discuss the topic "The operating status of state institutions and state institutional care for the elderly".

*(b) Contacts with other Bodies*

 On February 10, 2022, the Commissioner and Officers of her Office had a meeting with the Lawyer of the Association for the Protection of the Rights of Prisoners and Released Persons, Mr. Alexandros Cleridis, for a general discussion on issues related to human rights and in particular the possibility of "immediate" compensation in case their violation.




 On March 14, 2022, the Commissioner participated in the on-site visit made by the President of the Republic to the First Reception and Hospitality Center "Pournara" in Kokkinotrimithia.


Then, she joined an on a broad meeting held at the Presidential Palace for finding ways to address and mitigate the problems observed at the Center.





From the visit, as well as from the meeting that followed, the findings of the Report submitted by the Commissioner on March 10, 2022, under her responsibilities as the National Mechanism for the Prevention of Torture and as the National Human Rights Authority, were confirmed: On the one hand, the inadequacy of the logistical conditions of Center, on the other hand, the need to decongest it and, in particular, to move from the Center the unaccompanied minors residing there.

 On 8 November 2022, the Commissioner and Officers of her Office had a meeting with the European Committee for the Prevention of Torture (CPT), in the context of the Committee's ad hoc visit to Cyprus. During the meeting, there was a discussion regarding the Migrant Detention Center in Mennogea, the procedures for forced returns, etc.

 On November 17, 2022, the Commissioner and Officers of her Office had a meeting with the representative of the UN High Commissioner for Refugees in Cyprus (UNHCR Cyprus), Ms. Katja Saha Savarimuthu. The discussion focused on the "Pournara" Center for the First Reception and Hosting of Migrants in Kokkinotrimithia and, in particular, on the living conditions of unaccompanied minors and other vulnerable persons, on issues related to the safety of those staying in the center, hygiene and the center's infrastructure, etc.



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