

THE SECOND MEETING OF
THE SOUTH EAST EUROPE NPM
NETWORK in 2018

PODGORICA, MONTENEGRO

**Prevention of suicides and overdoses in detention centers
Status of NPM staff in the member states**

Podgorica, Montenegro
November 2018

THE SECOND MEETING OF THE SOUTH EAST EUROPE NPM NETWORK in 2018
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The Protector of Human Rights and Freedoms of Montenegro

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NOTE: Throughout this publication, the masculine terms used to denote physical persons include the feminine forms of those terms.

1. Protector of Human Rights and Freedoms of Montenegro, Mr. Šučko Baković



Dear Mrs Pašalić, Kastner and Mitrović, dear Mrs Erturk, my colleagues and esteemed Network members and guests, as a Chairman of the South-East Europe NPM Network, it is my honour and pleasure to welcome you and open this 2018 Conference.

The topics we shall cover at this Conference are of great importance and deserve attention of all those who are in any way involved in the treatment and protection of persons deprived of liberty in detention facilities. This is why we decided to use this meeting of the NPM Network to jointly analyse the topics, exchange experiences and good practice, expand our knowledge, and identify challenges that lie ahead of our institutions.

Suicide is a complex phenomenon that has been attracted the attention of philosophers, theologians, physicians and artists over the centuries. As a serious health problem it also demands our attention, particularly in the area of prevention and control. We are aware of the fact that, unfortunately, suicide prevention and control are no easy task.

Suicide is often the single most common cause of death in detention facilities. Prisons are responsible for protecting the health and safety of their inmate populations, *and the failure to do so, can be open to legal challenge*. Therefore, ensuring appropriate Suicide Prevention and Intervention Service is useful both for inmates and the institution in which such Service is formed.

Suicide is a serious health issue. Its causes are complex. The critical challenge of suicide prevention is to identify the most vulnerable people, understand the circumstances which make them act on such impulses, and effectively structure interventions.

The suicide rate is higher among inmates, as a group, than among other community members. Thus, young males are among the highest risk for suicide as well as persons with mental disorders, those declared legally incompetent, socially isolated persons, people with substance use problems, or those who have previously enacted suicidal behaviours.

The very incarceration and stress associated with prison life may exceed the coping skills of vulnerable individuals. In the Montenegrin detention facilities suicide prevention programs are still not in place, and national prevention standards and guidelines have not been adopted. However, according to the World Health Organization reports, the prevention programs considerably reduce the rates of suicide and attempted suicide.

According to the information obtained from the Institute for the Execution of Criminal Sanctions in Podgorica, in the period from 2008 to 2018, two prison suicides were committed (one by hanging and the other by medications overdose), whereas three attempted suicides were recorded (one in 2014, 2015 and 2018, each). The documents of this case do not present the data that possibly show the risk of suicide or suicidal tendencies.

Statistically, one might conclude that the number of suicides committed in the past ten years is small. However, in suicide prevention, even a single case deserves and demands particular attention and involvement of all entities.

In our Reports, we pointed out that the inmates, who are at risk of suicide, not only need direct medical support but also require more intense activities aimed at social integration. As suicide may happen within the first hours of arrest or detention, to be effective, screening for suicide must occur immediately upon admission to the facility.

The job of the Prison Service does not end there. Post-intake observation needs to be continued and, if necessary, appropriate measures should be taken. Prison staff, who are in contact with inmates, notably the staff working in intake and admission wards, should be trained to recognize the signs pointing to the risk of suicide.

All Services in detention facilities need to be trained in recognizing the warning signs i.e. cries for help of a suicidal person – what the signals are and how to identify them, what to do after their identification. Timely identification may prevent the unwanted consequence.

The entire system should be committed to developing prevention in all detention facilities by forming expert teams to deal with the issue of suicide and prevention. These teams should be comprised of experts in different fields – psychologists, sociologists, social workers, psychiatrists, educators, physicians. To develop an adequate and effective form of prevention, suicide should be considered by using multidisciplinary approach.

Accordingly, prevention needs to include the whole society and financial and psychological support provided by the government. The Institute for the Execution of Criminal Sanctions found that out for the total number of inmates with recorded mental disorders, those addicted to psychoactive substances accounted for 50%.

Specific characteristics of addiction diseases and their highly adverse impact on the entire society makes this category particularly vulnerable in prison environment. *Additionally, due to the lack of accommodation capacity in the Special Psychiatric Hospital in Kotor, in December 2017, 82 inmates, who were pronounced the court measure of mandatory treatment and custody, had to be put on hold. The majority of inmates who were put on a treatment waiting list were pronounced the measure of mandatory drug addiction treatment, despite the fact that the then effective Law on Execution of Criminal Sanctions stipulated that in such cases, the convicted person may not start serving a prison sentence before the security measure is enforced.*

Testing for psychoactive substance use in the Montenegrin prisons is performed for two reasons. The first is when there is a suspected alcohol, drug or psychoactive substance use. In such cases, as a special precaution, testing is performed for the presence of communicable diseases and abuse of alcohol, drugs, and psychoactive substances. Refusal to undergo such tests represents a serious disciplinary violation.

The second reason for testing is of a medical nature and serves for psychiatric monitoring of the patient, which involves the inmate's consent.

In addition to pharmacological therapy, in its treatment of persons addicted to psychoactive substances the Institute includes a 12-step program which is similar to group therapy techniques and its aim is to achieve and ideally maintain lifelong abstinence. *The program is led by a psychiatrist and a psychologist who combine it with transactional analysis as a therapeutic technique¹.*

This internationally recognized program is adopted in the public institution for accommodation, rehabilitation a re-socialization of psychoactive substance users *Kakaricka gora* and is intended as therapy of psychoactive substance users. *Through this program „a person becomes familiar with the addiction disease and admits to having a problem”. Since the state of abstinence leaves an emptiness in the life of an addict, spiritual elements are introduced. These elements are not strictly of a religious nature and the person may explore and choose the spiritual principles he or she can relate to. At the micro-level, these principles are realized through a group work and connection with a group. Then, in a safe environment, the persons get to know themselves, their good and bad sides for which they take responsibility and they also take responsibility for their relationships with other people, particularly those whom they had hurt in their drug addiction phase. Thus, they build empathy, altruism, responsibility, realistic insight, namely, all the characteristics that usually do not exist in personality disorders and other more serious disorders.*

In December 2017, this program included only six inmates. According to the psychiatrist, this was because the addicts lacked motivation or the group rules were grossly violated or the adverse influence was exerted on the group thus making addicts to exclude themselves from the participation in the program. Because of that, and having in mind multiple benefits that can be drawn from the program, steps and measures need to be taken to additionally motivate inmates to participate.

According to the reports of the European Monitoring Centre for Drugs and Drug Addiction, several countries have established drug-free wings or units where inmates consent to frequent and random testing aimed to show that they do not use drugs. In return, they have benefits, privileges and/or a living standard that is better than that in standard prison wings. *The inmates who tested positive were sent back to standard prison wings. This is suitable only for those inmates who are extremely motivated not to get in contact with drugs while serving the sentence.*

¹ Analysis of communication enabling to assume internal states and internal personal dynamics. Transactional analysis has a whole set of concepts which facilitate the understanding of the way people function.

Montenegrin prisons do not have so-called drug-free wings or units. This requires special accommodation and treatment, lot of efforts on the part of officers and professional staff in their work in such wings as well as additional funds.

Prevention, protection and support to addicts must be provided in all phases – from arrest through detention to prison sentence and gradually, after the release.

In the past 10 years, three cases of overdose deaths by psychoactive substances were registered in Montenegro. Medical records did not show any information which could lead to the conclusion that the risk of suicide was present and thus, the deaths of those inmates were registered as unintentional.

From the archives, medical records, and other documents it could be concluded that no treatment was applied to those persons or if it was applied, it was insufficient. There were no individual plans and programs for work with those persons and frequent punishments for gross violations of rules were recorded, whereas the classification in a more favourable group was denied and addicts lacked motivation for treatment.

Behaviour of addicts in prison and their search for drugs makes them easy targets for different misconducts and violence. In their attempts to get hold of drugs in prison they risk to become indebted and consequently become the subject of threats, abuse, and violence among prisoners.

The protection of convicted drug addicts who, while in prison, are entitled to adequate treatment and help, should promote the idea that the treatment in prison system must be equivalent to the treatment methods available within the public healthcare system in the country. This approach is aimed at preventing stigma and discrimination against persons struggling with the problem of addiction.

Stigma and discrimination are the biggest obstacles to prevention and provision of necessary measures for the rehabilitation of these persons. One of the fundamental rights arising from international conventions is the right of an individual to a healthy life. This requires overall involvement of the community in the activities aimed at protection against the circumstances which are conducive to drug abuse. Regardless of the importance to firstly exhaust all alternatives in prison, as previously mentioned, forced withdrawal during the prison sentence should be used to offer the convicted addicts the therapy which due to their chaotic lifestyle was not available to them before. In order to enable a systematic prevention of drug abuse, it will be necessary to ensure a design, implementation and sustainability of high-quality preventive programs and early detection and prevention programs.

Accordingly, it is necessary to develop and improve the programs for prevention of addiction diseases and reduce drugs availability at all levels. This principle mandatory includes the right of every individual to a dignified and professional treatment and help in case of illness or other threats.

The control of overdose-related issues requires an overall approach which recognizes the problem as a consequence of concurrent activities at numerous levels – both at individual

level and a broader community level. Resolving the problems and consequences of drug abuse and psychoactive substance use is the task that should be assigned to different departments dealing with social protection and healthcare, education, judicial system, police, finance and different parts of civil society and general public. To that extent, we have provided recommendations that, within the prison system, all conditions and capacities for treatment and handling of addicts should be improved at all healthcare levels.

The efforts should also be directed toward the development, availability and coverage by programs and services provided in prisons and other detention facilities based on the appropriate evaluation of health and needs of inmates, with the aim to achieve a good-quality care equivalent to that provided within the community.

Finally, I am convinced that by analysing our reality and challenges in this area we will contribute to the improvement and realisation of our mandate and role of NPMs in the prevention of suicides.

2. Deputy Protector of Human Rights and Freedoms of Montenegro, Mrs. Zdenka Perović



Dear colleagues, members of the National Preventive Mechanism of the South-East Europe Network against Torture, representatives of Albania, Austria, Greece, Croatia, Macedonia, Hungary, Romania, Serbia and Slovenia, our permanent observers, colleagues from Ombudsman institutions of Bosnia and Herzegovina and Kosovo and guests who, on this occasion, come from the Human Rights and Equality Institution of Turkey.

Welcome to the first 2018 Conference presided by the NPM of Montenegro. The topic or, better still, the topics to be covered on this occasion were proposed at the previous 2017 Belgrade Network Conference held in December and were agreed in our interconference consultations. These topics are suicide and overdose death in prison and the position of NPMs in the States Parties to the OPCAT. In addition, the topic which we certainly all share is the position of NPM staff and members within the position of NPMs. On this occasion, this unavoidable issue will also be addressed.

The States Parties to the Convention against Torture and the Optional Protocol to the Convention are responsible for persons deprived of freedom i.e. persons under control of public authorities and are particularly obliged to ensure that human rights of such persons are protected.

The National Preventive Mechanism against Torture was established with the aim to prevent torture by performing regular visits, that is, by being present at the places where people are or may be deprived of liberty and to analyse the conditions in which these people live as vulnerable category, as well as the overall treatment to which such persons are subjected, in order to identify the moments which cause or may cause their ill treatment, abuse and torture as the most severe form of inhuman treatment.

Death, as the terminal outcome of the overall conditions in which a human being lives may be, and most often is a natural end of life which is inevitable even in the best of conditions and fully supportive environment. However, when death occurs in a prison, it must become the subject of special attention of all relevant authorities, under the watchful eye of the public at large.

Certainly, prison is also the place where death from natural causes may occur, however, the very fact that the person deprived of liberty is in prison speaks of life in unnatural conditions and deprivation of one of the fundamental human rights to which a person is

entitled by birth. Such unnatural environment and conditions therein predominantly lead to the conclusion that almost no death which has occurred in prison can be considered natural and thus, must be subjected to a comprehensive analysis.

On this occasion, we will address the phenomena of prison deaths by suicide and overdose.

According to one of its numerous definitions, suicide means the act of a person intentionally taking one's own life, led by the desire to intentionally end one's own life, and aware of the consequences of one's own decision. This implies that such person was psychologically healthy, of sound mind, and had control over his or her own actions. However, statistics show that the persons with more severe psychological disorders, persons in terminal stage of a disease, and addicts, mostly alcoholics, account for the highest percent of suicides. To that extent, we need to focus on the prevention of suicides, that is, on the identification of prisoners who belong to the groups at risk, and to discuss their appropriate treatment in order to eliminate the factors which lead such persons into a state in which they first have a thought of ending their life and then make a decision, subsequently taking a step further – acting on such impulses. As we can see, in almost all of the cases, intentional taking of one's own life is a process which unfolds for a particular period of time and in which the person sends numerous warning signs, which leaves plenty of room for preventive actions.

On the other hand, death by overdose commonly is not the consequence planned or expected by a person who uses psychoactive substances, but certainly is a consequence that can be and should be prevented by appropriate treatment of addicts in controlled conditions of prison environment.

These are notably the obligations of public authorities i.e. prison system, however, we are particularly interested in the range of NPM actions that can be taken in this area, whereof during this Conference, separate discussions will be held in order to close it with conclusions that could be used as particular guidelines for further work and actions.

3. Austrian Ombudsman Board and President of legal group, dr Peter Kastner

1. Basic information



Austria has about 8,8 million inhabitants. More than 9.000 persons are in prison². 905 of them are mentally disturbed lawbreakers, who are accommodated in involuntary forensic placements.

There are 27 prisons, spread over Austria. Most of them are dimensioned for 250 to 350 inmates. Some are double size as well. The biggest correctional facility is located in Vienna. It is dimensioned for 990 inmates; chronically overcrowded it has to give place to 1.200 inmates.

Every attempted suicide occurring in one of these 27 correctional facilities has to be reported to the Prison Department of the Ministry of Justice in Austria. These reports describe personal and criminal characteristics of the inmate and the circumstances, time and method of the attempted suicide. The information is handed on to the Austrian NPM, which passes it on to the leader of commissions, in which district the incident took place.

So the Austrian NPM is promptly informed about all suicides and attempted suicides in correctional facilities. In 2014 9 attempts, in 2015 24 attempts, in 2016 33 attempts, in 2017 16 attempts and in 2018 already 10 attempts took place. In 2014: 7 detainees, in 2015: 8, in 2016: 11, in 2017: 9 detainees and in 2018 already 5 prisoners committed suicide.

In most cases people strangle themselves by fixing the sheet or part of their clothes at the crossbars of the window, on their bed frame or a coat hook in the bath room. It is impossible to eliminate all relevant possibilities; we already had cases, where the prisoner used the siphon or the table to fix the loop, hanging his head in it.

It has to be mentioned that we also had suicide attempts using razor blades or a glass bottle, which has been broken before used as knife. The case happened last year in the closed ward of a hospital. The NPM recommended to eliminate glass bottles immediately and to use elastic plastic bottles instead, that can't be cracked by an inmate.

Finally we had a very sad situation last year, when a woman took cooking oil to inflame herself. It turned out that the cooking oil was not flammable itself, but the T-shirt the woman wore was made of synthetic material and the oil speeded up the flames. The

² As of January 1, 2017, according to Statistik Austria, 8,773,686 people were living in Austria. Among these, on 22.5.2018, 9.128 persons were in custody.

woman suffered 3rd degree burns. She had to spend several weeks in an intensive care unit of the hospital, but finally survived.

Over these years we had three cases, when an inmate killed himself by taking an overdose. Two took place in Graz Karlau, where one of the prisoners took an overdose of methadone and the other one an overdose of insulin. The last one happened this year in Upper Austria. The inmate had a day release. When he came back to prison, it was obvious that he took drugs. The inmate suffered a sudden cardiac arrest. Though he was brought to the next hospital immediately, all efforts to rescue his life were in vain.

There are more than 1.000 police stations, spread over Austria. 367 of them have a cell, where people can be detained. In 120 of these rooms people are detained longer than 48 hours. There are 15 police detention centers. The biggest one is located in Vienna. It comprises more than 340 cells. On average 500-600 persons are detained in facilities that fall under the administration of the Federal Ministry of the Interior.

In 2014 there have been 12 attempts, in 2015: 5, in 2016: 8, in 2017: 13 and in 2018 already 8 attempts. In 2014 and 2015 2 detainees committed suicide, in 2016 it was one person. Fortunately there was no suicide in 2017 and none in 2018 till yet.

Usually detainees try to strangle themselves; some injure themselves by cutting or swallowing items, one by setting his cell on fire. There has been no attempted suicide or suicide by taking an overdose of sleeping tablets or other substances.

2. Actual issues

So what can be done to prohibit suicides and suicide attempts?

a) Screening by using the VISCI

Over all is the **screening** of the inmate. It should be done as soon as possible and is part of the admission examination. Since most suicides occur in the first hours after being arrested, a screening procedure during admission is recommended. VISCI has been specially designed to be used directly by law enforcement officers without the help of psychologically or psychologically trained professionals. Thus, it is feasible at any time (day - night, weekend) and allows the early detection of suicidal individuals.

The tool was developed by *Stefan Frühwald* and *Patrick Frottier*, a psychiatrist and a psychologist. It's called **VISCI**, an abbreviation of "Viennese Instrument for Suicidality in Correctional Institutions". It is a questionnaire that leads directly to 3 potential results, comparable to the colours of a **traffic light**.

"Traffic light green" means: no suicide risk is evident, no special measures are required.

"Traffic light yellow": there is a latent risk, that the inmate might commit suicide. He or she should not be left alone in a single cell. The exposed inmate might share the room with a **buddy** or **listener**. These persons are prisoners as well, but specially trained to recognize

critical situations, when the vulnerable person might do some self-injury. Buddies and listeners don't get money for accepting a vulnerable person in their room, but get benefits, such as brighter rooms or a better equipment. Any vulnerable inmate should be occupied during the day, being employed, doing some handicraft work, painting or drawing, animation to leisure and sports activities, offering books, DVDs etc.

"Traffic light red": high risk of suicide; a psychiatrist, a psychologist and social worker should contact the inmate as soon as possible. In no case there should be a detention in a single room, not even if the room is monitored by video, as the controller might leave the room with the monitor for any reason and just that moment the incident might occur. We sadly had this situation.

The VISCI-tool clearly gives instructions on how to proceed with the inmate according to the evaluation result. Since the suicide profile may change during prolonged prison sentences, it is recommended to repeat the screening procedure from time to time.

b) Measures after the screening:

In case of increased risk of suicide, increased security measures must be taken to help the inmate. These include: adequate observation, ongoing communication with the inmate and between the caregivers, social intervention with the vulnerable inmate, both on the part of the staff and on the part of the inmates, a largely safe environment and if necessary, the professional and possibly medical treatment by the psycho-psychiatric specialist service.

c) If a suicide occurs...

There are at least 4 questions that are checked by our commissions if a suicide or a suicide attempt occurs:

How long did it take to open the cell? Who put the life-saving immediate measures? When did the ambulance arrive? What special care was given to the affected inmate afterwards experienced?

If a suicide occurs it is necessary to transfer fellow inmates immediately to a room with other inmates, as it is an enormous emotional stress for them to recognize what happened. The relatives of the victim have to be informed in a timely manner. The staff involved should be offered a debriefing as soon as possible. The tool is called CISM, which means Critical Incident Stress Management. CISM should be offered to inmates who are witnesses of the incident and to close relatives and friends of the victim as well.

Finally the institution has to do an internal reflection. What can be done to prohibit similar situations? A special task force, which was set up by the Ministry of Justice will be sent to the facility, to analyze all relevant details, doing a "psychological autopsy". One of the results might be, as recommended by the NPM, that inmates are not allowed to use shavers with replaceable razor blades any more.

Let me summarize:

Effective suicide prevention in detention centers is assembled by several components: the constructional condition of the detention center, the training of law enforcement personnel, a screening process, and psycho-psychiatric care during detention. Only the interaction of all elements can guarantee optimal suicide prevention.

Of particular importance is the training of law enforcement personnel on the issue of suicide, as it is at critical junctures, such as post-arrest, night and weekend times, when guards are the only guardians in the detention center, being responsible for the health and the life of inmates. Recognizing suicidal behaviour is therefore the first step of effective prevention work. Initial training must be followed by regular refresher courses to ensure continuous quality.

There are two main groups of detainees that must be distinguished in terms of their suicidal behaviour: pre-trial detainees and prisoners.

Prisoners often attempt suicide in the first hours of pre-trial detention. A second critical phase is the time before the trial and immediately after it. In prison, particularly violent delinquents, who were sentenced to long prison sentences fall under the high-risk group. The risk of suicide increases with the duration of the detention.

In addition, there are risk factors that apply to both groups:

Situation-dependent factors:

The most common cause of death for suicides in custody is hanging. The suicide takes place predominantly in solitary confinement or isolated from other prisoners and when the surveillance network is weak, e.g. at night or on weekends.

Psychosocial factors:

Inmates of a detention center are increasingly people with mental illnesses, emotional disorders or suicidal behaviour. The problem is compounded by the lack of family and social support, conflict in detention with other inmates and law enforcement personnel, or changes in detention conditions.

Women: Women in custody have a high risk of suicide, which makes them particularly vulnerable to emotional and psychological disorders.

Youth: They are facing an extreme situation and therefore need special support from the enforcement staff. Critical is the placement of juvenile delinquents in adult institutions.

Regardless of the risk group, each suicide poses a great psychological as well as cost-related challenge to the entire detention center system. Suicide prevention is therefore extremely important.

3. Examples of good practice:

I would like to finish my presentation with an example of good practice. Psychotic inmates will be transferred to special cool down rooms. To make sure that they don't injure themselves they are temporarily given items made of styrofoam. I have seen these cups during one of my consultation days in one of our correctional facilities and the NPM recommended to use these cups in all special security rooms in our prisons as well.

4. Commissioner at Ombudsman of Albania, Mrs. Ermonela Xhafa



The institution of the Ombudsman functions on the basis of attributes assigned to it by the Constitution of the Republic of Albania, as well as Law no. 8454, dated 04.02.1999 "On the People's Advocate" (as amended). This institution has the attribute of overseeing the implementation of the standards set out by various international instruments which focus on the protection and respect of human rights.

With the approval of Law no. 9094, dated 03.07.2003 "On the ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment (OPCAT)", comes the obligation to establish a national framework for the prevention of torture or for attaching such an activity to an institution with a similar profile job. The People's Advocate, as an independent institution with a special focus on human rights and based on the "Paris Principles", deemed to be the appropriate authority to ensure the professional and independent functioning of the NPM, as specified in the OPCAT.

Legal basis

Article 19/1 of Law nr. 8454, dated 04.02.1999 "On the People's Advocate", amended, authorizes the independent, thorough and overall monitoring investigation activity for every case of torture, inhuman or degrading treatment by guaranteeing full access in all relevant institutions. The Republic of Albania has signed the OPCAT Protocol has adopted it by law Nr. 9094, dated 03.03.2003, assigning the Ombudsman the role of NPM. Amendments to the Law nr. 9888, dated 10.03.2008 "On the rights and treatment of detainees" the Ombudsman in the role of NPM has been recognized competences to monitor the rights of the people deprived of liberty, as well as the right to submit specific reports and recommendations to the relevant authorities.

NPM organizational structure

During 2017, the NPM operated with a multidisciplinary structure consisting of five assistant commissioners, part of the civil service of the Republic of Albania, of whom three legal experts, a psychiatrist and a clinical psychologist. With the amendments made to the Law No. 8454, dated 04.02.1999 "On the Ombudsman", as amended, it was anticipated that the NPM will be led by a Commissioner. In March 2018, the Albanian Assembly elected the first Commissioner as Head of the Albanian NPM.

Institutions monitored by NPM

- Prisons and remand institutions
- State Police institutions
- Ppsychiatric hospitals
- Military disciplinary units
- Regional Migration and Border Police
- Close centers for illegal immigrants and safe houses for trafficked persons.

According to the World Prison Brief (WPB), a unique data system that provides access to information about the world's prison system, Albania ranks on the list of countries with 100% full-prison prisons. For our country, the level of imprisonment, based on official capacity, is 105.6%, ranking 109th out of 222 states.

According to data, Albania has 5,447 inmates, accounting for about 0.19 percent of the population. According to the report, in Albania, only 1.9% of prisoners are women, one of the lowest in the world. 1.4% of prisoners are foreign.

Monitoring visits during 2017

During 2017: 124 periodic visits, follow up visits, thematic controls and visits in the above mentioned institutions'. Out of them 29 were monitoring visits carried out in prisons and remand based on the approved plan of inspections for 2017; 63 monitoring visits in police stations and regional police directorates; 16 of forced return flight operations in cooperation with FRONTEX; and 14 monitoring visits in psychiatric hospitals, rehabilitation centers, asylum centers.

82 inspection reports, including various recommendations regarding the findings were issued and delivered to the institutions concerned.

Issued Identified in Prisons and Remand Institutions

During 2017 inspections, a series of problems were identified which should be urgently addressed and improved. These problems are summarized as follows:

Persisting situation of detearioted material conditions with no steps taken for reconstruction or improvement in Zarahia, Saranda, Tepelena and Kukes prisons and detentions centers.

These deteriorated material conditions could amount to degrading treatment and the Ombudsman has recommended immediate closure and the transfer of inmates in other penitentiary institutions. In 2017 Overpopulation is still an issue in our penitentiary system. Even though a decreasing trend of around 10% was observed in recent years.

Failure to respect the agreement between the Ministry of Justice and the Ministry of Health to establish a Special Forensic Mental Health Institution with the aim of sheltering and treating forensic patients with mental disability issued by the courts with mandatory treatment.

The treatment of this category such as in Kruja prison, in appalling material conditions, the lack of psychiatrists and specialized staff, the impossibility for their treatment in regional psychiatric hospitals remains a great concern and in breach of all international and legal standards. Problems with offering education. In Lezha, Lushnja, Tepelena, Saranda and Rogozhina prisons the mandatory education was not offered in breach of the Agreement between the Ministry of Justice and Ministry of Education.

Inmates do not receive payment for the work they do in the prisons, instead they are offered some incentives with a scheme of amount of days of earlier release per years. This scheme prevents them from pension contributions and other social security benefits.

As for the infrastructure, the bulk of the penitentiary institutions suffered degradation, dampness, power and water cuts, lack of natural light and fresh air in the cells. The toilets, kitchen areas, showers, airing areas, confined rooms fall short of appropriate standards. Teaching rooms, religious and sport activity facilities are missing. (E.g. Zaharia, Kruje; Kosove, Lushnje; Rogozhine, Burrel, Sarande, Tropoje, Lezhe

Delays in providing health care to detainees, caused in most penitentiary institutions failure to apply their reimbursement scheme. They faced difficulties in being provided with the relevant medication needed.

Difficulties were observed in most penitentiary institutions to see a specialized doctor, be examined and run specific laboratory tests outside the facilities.

Dentist services were not regularly provided in the penitentiary institutions due to a lack of adequate equipment and back-up materials.

In most penitentiary institutions only basic service and tooth extractions were offered. Other interventions are carried out in public or private clinics, at the expenses of prisoners. Central heating was not working almost in all penitentiary institutions, due to technical deficiencies or shortage of fuel.

All penitentiary institutions had shortage of supply of basic personal hygiene products (shampoo, toothbrush, toothpaste etc.) as well as the necessary cleaning products

Extent of Respect for Human Rights in Psychiatric Hospitals

The findings from these monitoring visits conducted in 2015 at the above-mentioned psychiatric hospitals are the following:

- Non-compliance with the necessary living space requirements, inadequate conditions in hospital rooms, these persons were kept in hospital for longer periods of time / they were turned into residents of the Elbasan Psychiatric Hospital and for the wards with chronic patients at the Psychiatric Hospital Vlora.
- Hospitalizing intellectually disabled people in Vlora and Elbasan Psychiatric hospital, contrary to the laws in force.

- Lack of seclusion rooms at the Psychiatric Hospital in Elbasan and Mental Health III-treatment Ward in Shkodër and problems regarding conditions and fulfillment of the standards of this room at “Mother Teresa” UHC Psychiatry Service, Tirana
- Lack of a monitoring system with cameras (CCTV) in the premises of these hospitals and lack of unified registers by the Ministry of Health in the four above-mentioned institutions, particularly regarding the record of involuntary hospitalizations and application of physical restraints.
- Lack of posters displayed on the rights of patients in the premises of these institutions.
- Deficiencies in completing staff with psychiatrists at Shkoder Psychiatric Hospital and failure to provide nurses and caregivers to the one in Elbasan.
- Shortage of physical restraint means at “Mother Teresa” UHC Psychiatry Service, Tirana, Psychiatric Hospitals in Elbasan and Shkodër.
- Delays in the revocation of the “compulsory treatment” measure for persons who were subject to such measure in Shkoder Psychiatric Hospital.

National Reception Centre for Asylum Seekers.

The NPM, pursuant to Law No. 121/2014, dated 18.09.2014 “On Asylum in the Republic of Albania”, inspected the National Reception Centre for Asylum Seekers. The target of the inspection is to assess whether the treatment of foreign nationals being handled in this Centre, was in compliance with their rights to a treatment respecting their dignity and aiming their rehabilitation. The monitoring visit found that part of the recommendations formerly provided by the Ombudsman was implemented. The following represent problems which continued to be present:

- Lack of a lawyer, who would mainly deal with the documentation required to each individual sheltered in the center, taking into consideration the fact that this center accommodates foreign citizens.
- The anticipated staffing did not meet the needs for teachers, caregivers and medical staff.
- Persons housed in the NRCAS were not provided with economic aid, as anticipated in Law No. 121/2014, “On Asylum in the Republic of Albania”.
- The display of rights and obligations for the beneficiaries of this center was missing.

Coordinating Staff for Mental Health

Every penitentiary institution must have a specific unit called “Coordinating Staff for Mental Health” (CSMH), comprising specialists of health care, psycho-social and security personnel. They are in charge of implementing the “Specific Protocol” regarding this category.

CSMH must:

- raise awareness of inmates on the potential risk of developing mental health problems;
- be the first contact point for issues regarding inmates’ mental health;
- offer directions, information and support on mental health issues;
- coordinate the teamwork of healthcare personnel, psychologists and security staff;

Preventing Suicide in Prison:

A collaborative Responsibility of Administrative and Custodial Staff In Albania, studies confirm that most significant risk factors of suicide among prisoners consists of mental illness, particularly depressive disorder, psychological states of depression and hopelessness prior to suicide attempts, a pre incarceration history of psychiatric disorder or substance abuse or a psycho-social stressor acting as a precipitant.

For 2017

Suicide attempts, but prevented by police staff, have been recorded 4 cases
Suicide has been 6 cases. (one of them was subjected to a special inspection)

For 2018 (until May 25, 2018)

- Suicide attempts, but prevented by police staff, are marked by 3 cases
- Suicide has been only 1 case

The positive changes that have occurred in recent years have brought a new spirit to the treatment of prisoners and pre-detainees in accordance with internationally accepted standards. The NPM and the General Prison Directorate have adopted a guide on the prevention of suicide of inmates. This guide aims to enable prison staff to understand the basic concepts of the mental disorders and mental health and their way of manifestation in the context of prison;

- To have a better understanding of the kind of interventions, treatment modalities and the adequate management of this category of inmates.
- To provide a clear path for care, identification of cases and reference among multidisciplinary team

Overdose in the prisons

There has been no case overdose in the prison system. Because all kind of drugs are forbidden.

Generally in prisons, drug users range from 10 to 30 people/ prison, depending on the prison capacity, who are drug users, who have already left it but receive symptomatic medication for abstinence, for example. haloperidol or valium, with suputex (bupremorphine) which is a new drug that has replaced methadone.

But it is noticed that the presence of drugs and attempts to enter this prison can be made by prison guards, other people employed in this institution, through the meals brought by family members or with courier pigeons.

But as we are informed by the General Directorate of Prisons, have been taken measures and for all the cases that have been identified earlier are sanctioned with dismissal and criminal punishment.

Time by time the guardians control the cells of prisoners in blitz and in those cases where prohibited objects or substances can be found, they undertake the penal punishment measures

Specific Recommendations for the Prevention of Suicide in Prisons

The prison staff must be prepare to take the following measures:

- Taking accurate information by the Admission Commission in the offset of their admission in the institution;
- Ask for full information on the detainees exhibiting tendencies for self-harm, as well as information on possible conflicts;
- Ongoing monitoring in observation units by healthcare and psychosocial staff of people manifesting emotional problems or mental health disorders during first weeks after admission;
- Evidencing the detainees manifesting suicide tendencies. This asks for the coordination among the security, healthcare and social care staff;
- The ranking security officers, based on the recommendation of the healthcare specialist, must provide specific written tasks for the staff for monitoring people manifesting mental problems and suicide tendencies in the regimes;
- Careful and detailed body search must be carried out to prevent this category of inmates from possessing items/means/medication that can be used to commit suicide;
- To look into the possibility of planning activities enabling this vulnerable group to spend as much as possible time outside the cell;
- Clear and specific tasks must be given to the security personnel to focus the CCTV cameras and keep regular records about the activities of the inmates manifesting tendencies of suicide.

5. Deputy Ombudsman, Greece, prof. dr George Nikolopoulos



The matters under consideration have certainly a special importance for the mandate of the NPMs and this is due to the fact that, at the one hand, the suicides and overdose deaths in detention facilities are issues that we meet regularly in our activities but, at the other hand, their prevention is undermined by lack of adequate information before they occur, so that our intervention comes after the events or – what makes matters worse – these incidents are not reported as such, so that we don't take at all note of them.

I shall attempt to focus shortly on cross - cutting questions of these subjects, with a view to point out a possible field of NPM action in their regard, in order to minimize their impact in the violation of the inmates' right to life and to improve the detention conditions. Before this, however, I will present briefly the status of the greek NPM.

I. - The status of the greek NPM

The OPCAT was ratified by Greece only in 2014 and the Independent - constitutionally designated - Authority of the Ombudsman was proclaimed, by the same ratifying law, the National Preventive Mechanism provided for in the Protocol. The delegation to the Ombudsman of this special mandate came as a self-evident corollary of his long-standing accumulated experience and advanced know-how in the protection of fundamental human rights. An additional guarantee for the successful implementation of the National Preventive Mechanism mission has been the long-term oversight of matters relating to the provision of detention and living conditions, in line with international conventions and EU requirements, prior to the conferral of specific competence on the Ombudsman.

Necessary conditions for the diligence and adequacy of the National Mechanism are, as prescribed by international treaties, appropriate staffing and financial support. As far as the first is concerned, a regulatory decision of the Ombudsman was issued setting up a working group under the responsibility of the Deputy Ombudsman for Human Rights.

Concerning the financial support, unfortunately, it was only in mid-2017 that the Mechanism was eventually granted subsidy, notwithstanding the fact that support was envisaged already since 2014 and the law that ratified the Optional Protocol.

The Greek Ombudsman, upon assuming its special competence as NPM, stressed that it would carry out its mission in a fair and constructive manner, operating on the conviction that *“the legality of the restraint must be understood through a just, liberal and humane prism”*.

II. - Suicides and overdose deaths in detention facilities

Coming back, now, to the special topics of suicides and overdose deaths in detention centers, I'll present you my analysis in three short parts: at the beginning, I will mention the main difficulties that arise in the investigation of suicides and overdose deaths in detention facilities; then, I will continue with the challenges we face in the elaboration of reasonable and comprehensive prevention programs and, finally, I will conclude with some proposals about the actions we could undertake, as NPMs, for confronting these situations.

1. - The question of detection of suicides and overdose deaths in detention facilities.

Beginning with the question of detection, one of the most frequently complaint by the investigators is that many self inflicted deaths are not reported at all or that other causes for them are given, so that, in many instances, it is rather cited that the inmate “*was found dead*” or that “*he or she transferred dead*” and the dead is classified as “*accidental*” or “*unspecified*” than mentioning its real cause.

Quite often, prisoners are pronounced dead in the hospital where they are immediately transferred after committing suicide in their cells and, in that case the hospital is reported as the place of death, so that the cause of death seems to be unknown and the incident is not officially classified by the prison system.

Furthermore, another serious limitation in the investigation of suicides and overdose deaths in detention facilities is the lack of appropriate, recorded information. It should be stressed that inmate's files are not always available and, even so, the informations are in most cases unreliable given that certain staff reports, medical records, visits and letters, notices of past or current suicidal behavior and other essential data are missing from the relevant file or - even worse - in some cases, the whole file is missing.

All these deficiencies result to the falsification or the misclassification of the actual rate of suicide and overdose deaths and provoke serious doubts about the validity of the official statistics; accordingly, statistical figures from the Ministry of Justice are flawed and may reveal contradictory informations and incongruences when they are compared with data from other sources – as p. ex. from SPACE – so that the information sources in our disposal are not always objective, accurate and reliable.

However, regardless the size of “dark number” in the actual rates of suicide and overdose deaths in detention facilities, researches in the field point out that wherever such phenomena occur, they are not the leading cause of death in the Greek penitentiary system, in spite of the fact that the rate of self-inflicted deaths within this system is much higher than that of the general population.

This assessment converges with the general trend reported in international researches that, as a group, inmates have higher suicide rates than their community counterparts; also, there is some evidence that rates are increasing despite sometimes decreasing

numbers of prisoners. These trends does not mean that there is more suicidality within the institutions, but more people who are imprisoned show suicidal thoughts and behavior throughout the course of their lives.

In addition, being imprisoned is in itself another stressful event even for healthy inmates, as it deprives the person of important resources; from the other side, suicidal behavior by custodial inmates means, also, a stressful event for officers and for other prisoners.

Moreover, all the evidence points to the suicide rate being higher within the ex-offender group after their release from prison. This does not mean the correctional services have no responsibility for the suicide of offenders; on the contrary, these vulnerable offenders should be treated while they can be reached inside the prison.

Therefore, the provision of adequate suicide prevention and intervention services is both beneficial to the prisoners in custody as well as to the institution in which the services are offered.

2. - *Elaborating a reasonable and comprehensive suicide prevention program.*

The question thus arises as to how elaborate a reasonable and comprehensive suicide prevention program and which are the key components that must be included in it.

I would like however just to underline that - because the information sources in our disposal are not always objective, accurate and reliable - we know little about the real impact of any preventive program set up; that is to say that the target group of inmates to whom address such programs is not a priori concrete and measurable, so that we cannot assess ultimately to whom and to how many of them this program had a real deterrent effect.

In saying that, I have not in any case the intention to underestimate the importance of developing suicide profiles, that can be used to target high-risk groups and situations.

However, we must always bear in mind that - according to the recommendations from the Task Force on Suicide in Prisons of the International Association for Suicide Prevention - *“profiles should be used only as an aid to identify potentially high-risk groups and situations. Whenever possible, they should be developed to reflect local conditions, and regularly updated to capture any changes that may occur. Risk factors are not fool-proof predictors and should not be used without careful clinical assessment. When trying to screen at-risk prisoners, it is particularly confounding that the profile of those who will eventually suicide looks more “normal” than the profile of those who will attempt suicide”*.

III. - Overdose deaths in detention facilities

Related to the suicides in detention facilities is the question of the overdose deaths in them; however, if any relation exists, I think that it lies in the fact that overdose deaths may be used sometimes by inmates as a mean to provoke intentionally a self inflicted death; on the other side, an overdose death may be used by the authorities as an

explanation - or as a pretext to conceal - a suicide, so that overdose deaths and suicides contribute together to the creation of the size of “unnatural deaths” in detention facilities. However, as researchers point out, most overdose deaths are related to the use of illicit drugs, and most are accidental and, therefore, preventable. From this point of view, it seems easier to profile the high risk detainees for overdose death than those for suicide, notably because the first one are already known to the authorities for their drug dependence.

Consequently, ensuring the right treatment for drug dependence in prison - including substitution therapy in order to reduce the harm - together with the right information and training for prisoners and staff, as well as establishing close collaboration between the prison services and the community drug services before release and the right follow-up after release, all these factors combined constitute valid guarantees for the reduction of the number of overdose deaths.

These preventive measures for the overdose deaths are closely tied to the availability to prison populations of the treatments offered in the community as well as to comprehensive and uninterrupted drug services from the individual’s first contact with the criminal justice system through subsequent community reintegration, given that the rate of overdose deaths in prison populations in the immediate post-release period is unacceptably high.

IV. Conclusion: What an NPM could do?

Coming now to a certain conclusion, the question arise as to what an NPM could do in order to deal adequately with the matters under consideration.

First of all, I think that, from a preventive point of view, our intervention cannot but aim to the general prevention of these deaths, leaving to the personnel of the detention facilities the task to undertake a more special and individualized preventive approach, given that they have a better knowledge of the local conditions as well as of the inmate’s needs and profile.

In addition, it is evident that all correctional staff, as well as health care and mental health personnel, should receive continuous suicide prevention training as well as standard first aid and cardiopulmonary resuscitation training.

As for us, I think that our interventions in the field must aim at the acquirement of an objective, accurate and reliable information about the quantitative and qualitative aspects of the issues at stake.

In this respect, it is not enough to push the administration for more reliable information; we must also develop our own means and methods for the detection of the “unnatural deaths”.

To this end – apart from our general mission to control the detention conditions –I think that we must give priority to the following tasks:

- the training of our staff in the investigation of inadequate accounts for deaths in detention;
- to recommend the administration that it takes appropriate measures for preventing suicides and overdose deaths in detention facilities, as for example: intake screening for every new inmate, post-intake observation during the inmate's entire period of detention, adequate monitoring of suicidal inmates, etc;
- and - last but not least - the following up of the appropriate implementation of the measures taken.

Finally, as many in the international community have become vocal in supporting abolition in death penalty throughout the world, that same passion should be directed towards prevention of suicides and overdose death in detention facilities - that is, the prevention of a quasi death penalty imposed by the conditions of detention and executed by the lack of the necessary care measures.

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6. Adviser to the NPM division, Office of the Ombudsperson of the Former Yugoslav Republic of Macedonia, Mr. Aleksandar Trenkoski

General remarks



Suicide is a complex phenomenon and often the single most common cause of death in detention centers. It affects the fundamental right to life which sets upon States both a negative and positive obligation. The positive obligation requires national authorities to take the necessary measures to safeguard this right or more precisely, to adopt reasonable and suitable measures to protect this inherent right of all individuals.

Taking “appropriate steps” to protect life in the sense of preventive measures is essential when it comes to persons deprived of their liberty. Their confinement makes them vulnerable and puts them under extra mental stress, which can make these people suicidal even if they would not normally be.

Therefore, it is the responsibility of the national authorities to create and implement comprehensive suicide prevention strategies, which will include all aspects of identification, assessment, evaluation, treatment, preventive intervention and training of all medical, mental health, custodial and administrative staff.

Macedonia

Unfortunately, in Macedonia there is no comprehensive suicide prevention strategy. There is no law, formal procedures or guidelines that are established specifically for suicide prevention in detention facilities.

Instead of such strategy there are partial provisions aimed at preventing suicidal behaviors contained in several laws, by-laws and protocols that regulate the procedures for dealing with persons deprived of their liberty.

In this regard, for example the law and by-laws governing the treatment of persons in police custody set forth that everything that can be used for self inflicting should be taken away from the person before being placed in police cell.

Another example are provisions from laws and protocols regarding inmate population and patients in psychiatric institutions which provide that every person should undergo a

medical screening immediately upon his arrival and that if there is risk of suicide or self-inflicting the person must be kept under special surveillance.

In my opinion, all those provisions could serve as base for developing strategies for suicide prevention by the national authorities.

- Death rate-

Official data from the Directorate for Execution of Sanctions shows that between the period of 2008 and 2016 (up to April) in Macedonian prisons died 71 persons, of whom 9 committed suicide. According to our information, last year (2017) there were 12 death cases, of which 1 suicide and this year, up to now (May) there were 2 death cases, both suicides. The overall inmate population for the entire period is around 3 thousand.

Year	Number of deaths	Number of suicides
2008	8	1
2009	2	2
2010	9	3
2011	10	1
2012	9	/
2013	9	1
2014	10	/
2015	11	2
2016 (*up to April)	3	/
2017	12	1
2018 (*up to May)	2	2

Within the past few years there were no registered case of dead in police custody and also, so far there haven't been registered dead cases in Reception centers for foreigners and asylum seekers, but there were several cases of suicide attempts in 2015 and 2016.

- Method of suicide -

The most common method of suicide in Macedonian prisons is by hanging using bedding or clothing. The next most common method is overdose of psychotropic drugs, especially antidepressants or over-the-counter pain medications.

The most famous death case in Macedonian prisons is the one that was closed by the authorities as a suicide in which the detainee drowned himself in a plastic bucket of water.

Having in mind that it is very unlikely possible to intentionally drown yourself in a bucket of water, this case raised the question about the effectiveness of the investigations of dead cases in prisons.

- Recommendation –

NPM actions regarding this issue are mainly comprised of recommendations given to the relevant authorities, based on the findings during the conducted visits.

As a key recommended policy for prevention suicides in detention centers according to the Macedonian NPM is creating and implementing comprehensive strategy, which should include at least the following elements:

- Proper identification, which means that the receiving screening should contain observation related to the suicide risk,
- Assessment of the suicide risk conducted by a qualified mental health professional
- Trainings to all staff to be able to recognize verbal and behavioral cues that indicate potential suicide
- Procedures for monitoring persons who have been identified as a potentially suicidal
- Referral mechanism according to potentially suicidal inmates and attempted suicides will be referred to mental health care facilities.
- Procedures for communication between health care and custodial personnel regarding the status of persons and
- Procedures for documenting the identification and monitoring of potential or attempted suicides.

-Status of NPM-

Macedonia ratified the OPCAT at the end of 2008 and designated the Ombudsman as a National Preventive Mechanism. In the declaration made under the article 17 of the OPCAT it is also said that on the basis of previous consent by the Ombudsman, NGOs and organizations that have status of humanitarian organizations in the Republic of Macedonia, can undertake some of the competencies of the National Preventive Mechanism.

The ratification of the OPCAT was followed by amendments to the Law on Ombudsman and creation of the separate NPM unit within the Ombudsman office. After the establishment of the NPM, the Law on Ombudsman has also been amended several times in order to comply with OPCAT requirements and SPT recommendations as much as possible.

In this regard, when it comes to the mandate of NPM, provisions from the current legislative text are in full compliance with articles 19 and 20 of the OPCAT and set forth that:

the NPM has the competence to regularly investigate the treatment of person deprived of their liberty, to give recommendations to the relevant authorities in order to improve the treatment and conditions in places for detention, as well as to propose amendments to the legislation.

For the purpose of implementing these activities, the NPM has 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 and has the possibility to conduct private interviews with the persons deprived of their liberty without witnesses, either personally or with a translator.

Regarding the funds for the work, the Law on Ombudsman sets forth that the NPM has a special sub-program budget that is within the budget of the Ombudsman, and that the funds for work of the Ombudsman, as well as for the work of NPM shall be provided by the state budget.

But, despite the obligation of the state to make available the necessary resources for the functioning of the NPM, the Macedonian NPM is still facing the problem of insufficient resourcing.

During its visit in Macedonia last year, the SPT raised the question about the lack of functional independence of the NPM and in this regard recommended us to take the necessary steps to ensure that the NPM is independent within the Office of the Ombudsman, with its activities and functions clearly differentiated from those of the Ombudsman and with a mandate to act in its own capacity.

7. Deputy head of OCAT NPM Department, Hungary, Mrs. Katalin Haraszti

Preventing suicide in Hungarian places of detention



According to WHO about 800 000 people commit suicide around the world each year. In Europe, Eastern and Central European countries register the worst suicide rates. At the top of the list is Lithuania with its rate of 28.2 suicides per 100 000 inhabitants, followed by Russia (19.5) at the second place and Hungary with its rate of 19.1 in third place, according to the average data published by the WHO. The map below shows that the neighbouring countries of Hungary are far behind them with the third highest value.³

The penitentiary system

In Hungary, there are 14 county prisons, holding mostly pre-trial detainees and 15 national or regional prisons for convicted prisoners, including juvenile facilities as well. In addition, there are 3 specific institutions for the sick and the disabled.

Two newly built prisons exist in a public-private partnership, one holding 700 the other one 1476 prisoners. Overcrowding in private prisons is lower than at other prisons. The National Prison Service employs all prison guards, but a private company provides all management services including maintenance, food, medication and IT. A special unit was established in 2015 for inmates who committed child sexual abuse.

Suicides in detention places – scope the problem

In Hungary, there are no comparable official data on the total number of suicides and attempted suicides that occur in all detention places fall under article 4 of the OPCAT. Only the penitentiary system publishes detailed statistical data regularly.⁴

Suicide is a common cause of death in prisons, with rates substantially higher than in the general population. Being locked up in a prison comes with hands of stress. The most common stress factors are shame and/or guilt, fear of the unknown, isolation from the family, having no control of the future, losing outside relationships, legal frustration, overcrowded cells, and increases in harsher and/or mandatory sentencing laws which include life sentences.

³ The map is available at www.hungarytoday.hu/hungarys-suicide-rate-still-europes-3rd-highest-despite-declining-tendency-51086/

⁴ www.bv.gov.hu/bortonstatisztikai-szemle

Number of suicides in the Hungarian prisons was less than 10 annually in the past years. Although the rate is quite low it is significantly higher than the rate in the general population.

Suicides ⁵								
Year		2010	2011	2012	2013	2014	2015	2016
Total number of inmates		15 373	16 203	17 195	17 517	18 042	17 792	18 023
Suicides	Number	7	9	8	7	6	5	9
	Rate*	4.55	5,55	4,65	4,00	3,33	2,81	4,99
Attempted suicides	Number	75	36	34	42	49	41	21
	Rate*	48.79	22.22	19.77	23.98	27.16	23.04	11.65

The rates of attempted suicides are multiple of the rates of suicide deaths. Suicide attempts frequently take the form of self-harming (cutting, burning or non-lethal overdoses, etc.) which is not recorded by the suicide statistics.

Identification of at-risk detainees

Under the European Prison Rules the *“medical service shall provide for the psychiatric treatment of all prisoners who are in need of such treatment and pay special attention to suicide prevention.”*⁶

Prison staff, whatever their particular job, should be aware of, - which implies being trained in recognising - indications of suicide risk. It is falling within the *“purview of a prison’s health care service. It should ensure that there is an adequate awareness of this subject throughout the establishment, and that appropriate procedures are in place.”*⁷ Medical screening at arrival and the reception process has an *“important role to play in this context; performed properly, it could identify at least certain of those risks and relieve some of anxiety experienced by all newly-arrived prisoners.”*⁸

Every prisoner is to be examined and interviewed by a qualified health-care professional as soon as possible after his or her admission. Particular attention is to be paid to identifying any signs of psychological issues or other stress brought on by the fact of imprisonment, including the *“risk of suicide or self-harm and withdrawal symptoms resulting from the use of drugs, medication or alcohol”*⁹ and all appropriate individualized measures or treatment should be undertaken.

The Minister of Justice issued an instruction (hereinafter: ministerial instruction) on methodologies of the prevention and treatment of suicide attempts in detention places, what regulates the identification, registration and treatment of suicide and self-harm risk

⁵ Börtönstatisztikai Szemle 2017/1, pp. 8.

* Rate per 10.000 prison inmates.

⁶ Art 47.2. of the European Prison Rules.

⁷ Art 57 of CPT/Inf(93) 12.

⁸ Art 58 of CPT/Inf(93) 12.

⁹ Rule 30 (c) of the Nelson Mandela Rules.

detainees, including prisoners, pre-trial detainees, immigration detainees, and detainees under mandatory psychiatric treatment etc. It orders that identification of suicide risk detainees should be made as part of the reception procedure.¹⁰

A reception screening offers the opportunity to instantly intervene in the case of clinical needs or problems as soon as the individual enters a detention place. This opportunity is very important because self-harms or suicide attempts occur in the early stage of detention. A person identified as a suicide risk should be registered and kept under a special observation regime. The persons whose names appear on the suicide risk list should meet a psychologist, a psychiatrist or a priest at least once week.¹¹ They should not have easy access to means of killing themselves (cell window bars, broken glass, belts or ties, etc).¹² Exceptional occurrence as self-harm or suicide attempts should be registered and assessed by the staff.

The risk assessment in relation to every detainee should be ongoing throughout their entire time in detention. All identified risks are to be recorded. The reintegration officer or the psychologist should be notifying when the staff identify risks or changes in behaviour or circumstances of detainees which may lead to self-harm.

The ongoing monitoring of at-risk detainees ensures that every member of the staff working with the detainees is aware of their current behaviour. The formal observation allows for the review of the risk status of detainees and provides appropriate care or supports him or her. Dependent on the mental health of the detainee, his or her name could be cancelled from the registry.

Monitoring suicide prevention by the NPM

In the course of the NPM visits, the teams inspect the premises of the places of detention, their furnishing and equipment, documents related to the number, treatment and conditions of the placement of the detainees, make photocopies of some of the documents, and also review the engagement of the persons deprived of their liberty. The NPM visits cover the way of screening, monitoring and the care provided for at-risk detainees.

Although there are reception procedures in non-traditional detention places as elderly homes, child-care institutions etc. which involve the mental health of the newcomers but self-harm or suicide risk assessment is used only by the institutions covered by the ministerial instruction.

All detention places compile data on exceptional occurrences that happen within the institution. In lack of regulation biding on all these data are not fully reliable and comparable. The most common finding of visits taken in elderly homes is the limited access

¹⁰ 11/2010. (III. 26.) IRM utasítás a fogvatartottak öngyilkossági kísérletei megelőzésének és kezelésének módszereiről.

¹¹ Art. 25, A büntetés-végrehajtás országos parancsnokának 27/2017. (II. 15.) OP szakutasítása a fogvatartottak öngyilkossági cselekményeinek megelőzésével kapcsolatos feladatokról.

¹² Art 59 of CPT/Inf(93) 12.

to the mental care. Often, people living in elderly homes do not see medical doctors for months. Medicines are regularly prescribed by the GP without personal consultation. At-risk elderly people living in homes are generally taken to a hospital. Self-harms and suicide attempts that occur in the hospital or anywhere outside the homes are generally not registered by the staff.

In children's homes, it is common that several members of the staff are undertrained. Often, several members of the on care staffs are trained for maternity care but they are employed for working with teenagers.¹³ In these circumstances, it was not possible to expect the undereducated staff to pay the appropriate attention to the youth living in institutional care. Due to the mental and physical changes, teenagers are very vulnerable to depression, drugs, and self-harms.

Conclusion

Statistical data show reductions in the number of suicide attempts and deaths in prisons. Over the last years, growing attention has been paid to the effectiveness of suicide prevention in the penitentiary system. Due to the ministerial instructions, the prevention of suicide passed from medicalised approach to a new approach where suicide prevention became the responsibility of every member of the staff.

The prevention program includes training for the prison wards and the health personnel, psychiatric evaluation for at-risk inmates, improving communication among staff, setting up special safe units, and observation of inmates by officers, medical intervention procedures and review of attempted and completed suicides.¹⁴

Similar measures may be taken in other non-traditional detention facilities.

¹³ NPM Report No AJB 1603/2016.

¹⁴ Art. 4-5 of 11/2010. (III. 26.) IRM utasítás a fogvatartottak öngyilkossági kísérletei megelőzésének és kezelésének módszereiről.

8. Representative of NPM of Romania, Mrs. Mihaela Sîrbu



a) The Romanian Ombudsman institution, by the Field on the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in Places of Detention, has been designated in 2014 as the only national structure that performs the specific tasks of the National Mechanism for the Prevention of Torture in Places of Detention, for the purposes of the Optional Protocol at the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

The activity of the domain on the prevention of torture in the places of detention, at present, besides the Deputy of People's Advocate coordinating the Field on the prevention of torture in the places of detention, is unfolding with lawyers, specialists (doctor, psychologist and social worker) and representatives of non-governmental organizations.

b) The personnel of the Ombudsman Institution, including NPM members, are applicable the provisions of the Statute of the staff of the specialized structures of the Parliament.

The independence of the National Preventive Mechanism derives from the status of the Ombudsman institution as a public authority, autonomous and independent from any other public authority, under the law.

In order to guarantee the functional independence of NPM and the exercise of its preventive mandate, starting in 2016, the first steps have been initiated to harmonize the provisions of law no. 35/1997 concerning the Field on the prevention of torture (NPM) with the provisions of the Optional Protocol, these being included in a legislative proposal which was adopted by the Chamber of Deputies and is currently submitted to the Senate. Legislative proposals for amendment relating to the NPM focussed mainly on:

- replacement of the name of the field on the prevention of torture in places of detention with the national preventive mechanism of torture;
- to draw up an annual report on the activities of the National Preventive Mechanism, separate from the annual report of the Ombudsman institution;
- settlement of petitions regarding acts of torture, the treatments with cruelty, inhuman or degrading treatment in places of detention, depending on the type of their place of detention, by the areas of activity of the Ombudsman institution fulfilling reactive role. In cases the Ombudsman appreciated as being exceptional, it may order the settlement of certain petitions or complaints ex officio by the National Preventive Mechanism. It will carry out, with the exceptions indicated, attributions only in the matter of preventing torture in places of detention by making regular visits to these places;
- the inclusion in the category of places of detention which were subject to monitoring NPM of land, air, river and naval means of transport, used for the transport of persons deprived of liberty, including verifying how enforcement of the

measure of expulsion under escort; ●the inclusion of explicit provisions relating to prohibition of submission to reprisals; ●regulation of guarantees to the members of NPM; ●the annual budget of the National Preventive Mechanism is proposed and developed by the Deputy of People's Advocate for National Preventive Mechanism and approved by the Ombudsman, being used almost exclusively for expenses of the Mechanism; ●to grant a raise for personnel who carry out visits or investigations in spaces where there are factors with high degree of danger which may affect the health and physical and mental integrity; ●ensuring of payment of expenses for transportation, accommodation and meals during the movements made by the representatives of non-governmental organizations forming part of the visiting team.

Concerning the powers of the National Preventive Mechanism, we mention that through law no. 9/2018 for the modification and completion of the law no. 35/1997 was founded a new field of activity within the Ombudsman institution, exclusively for the defence and promotion of children's rights, that has duties and carrying out unannounced visits of inspection, ex officio or upon request, together with representatives of National Preventive Mechanism of torture in places of detention, at centres for minors.

c) In 2015 was drafted a Special Report on the conditions of detention in prisons and detention and pre-trial detention centers, determining factors in respecting human dignity and the rights of persons deprived of their liberty, which also addressed issues related to the events involving people deprived of liberty during the period 2014-2015, including suicide, which was submitted to the Parliament.

From the inquiries carried out, one of the causes of the deaths was suicide, generally by hanging, for example: 3 cases registered at Galati Penitentiary; one case at Craiova, Codlea, Aiud, Bacău, Tulcea Penitentiaries. In these cases, the prosecutor's office was informed, the solutions were for classifying the cases for referring to committing crimes of killing by fault and determining or facilitating suicide.

Suicide requires the supervision of vulnerable categories of people, with a special role in providing adequate medical assistance and psychological counseling, to know the typology of detainees, prevent their suicidal acts, and treat the conditions with whom they were diagnosed.

Preventing suicides is another issue that falls under the remit of nursing care. They must ensure awareness of this issue within the institution and the availability of appropriate devices. Medical check-in on arrival and the reception procedure as a whole have an important role in this context. Fulfilled correctly, they can identify at least some of the inmates at risk and remove some of the anxiety of the new detainees.

Later, prison staff, should be alerted to signs of suicide risk. In this regard, periods preceding or immediately following a trial or, in some cases, pre-release periods are characterized by an increased risk of suicide. A person identified as having an increased risk of suicide should be placed under observation, however necessary. Then, such persons should not have easy access to objects that allow them to commit suicide. Measures must be taken to ensure a flow of information both within a given institution and, if necessary,

between institutions (more precisely between those health care services) regarding persons who have been identified as potentially at risk.

In 2016, the Ombudsman Institution through NPM notified ex officio about the suicide of an Austrian citizen, an incident that took place at the detention and remand center Sibiu. Following the investigation carried out by representatives of NPM, the following recommendations were formulated: psychological counseling of persons in custody, examine the possibility of accommodating at least two persons in the room, adopt measures to ensure proper supervision of the rooms where the persons in pre-trial detention are accommodated, in accordance with the legal provisions.

According to the response of the Police Inspectorate Sibiu: psychological assistance to persons in the custody of detention and remand centers from Romanian Police are carried out in accordance with a procedure. According to which persons deprived of liberty are informed in writing about the rights they have, including the possibility to ensure psychological assistance, these rights being displayed on the door of each rooms (including in languages international circulation). Psychological assistance is granted on the basis of application by the person deprived of liberty. If the person (adult) does not require such activity on a voluntary basis but the supervisory staff appreciates as appropriate the intervention of a psychologist, structure of preventive arrest shall submit a request the structure of Psychology specifying the behavior, events, obvious emotional states of the person placed under arrest. In exceptional cases, when persons deprived of liberty in the detention and remand center Sibiu are accommodated individually the measure was taken to establish a special record (increased surveillance in relation to these). Supervision of persons deprived of liberty in the detention and remand center Sibiu is made by police agencies by listening (on the occasion of the patrol on the hall where the detention chambers are located), view through the viewfinder and system video surveillance, in accordance with the legal provisions concerning rest of the person deprived of liberty between 22.00-06.00.

In 2017, the Ombudsman Institution through NPM notified ex officio about the death of a 38-year-old prisoner who was in the custody of the Tulcea Penitentiary, and whose body was found in the agro-technical household where he worked. Follow-up of the investigation, has been recommended appropriate supervision of detainees to prevent possible suicide actions and training staff to detect depressive signs / symptoms, suicidal ideation and suicide risk assessment in periodic psychological evaluation by means of specific tools, being also notified the Ministry of Justice. In the response sent by the National Administration of Penitentiaries was indicated that the following measures were established: the supervision of detainees should be carried out according to the enforcement regime in which they were established in compliance with the provisions of law no. 254/2013 relating to the execution of the sentences and custodial measures ordered by the judicial bodies during the criminal trial; specialists in the sector education and psychosocial support (psychologist, educator, social worker) to assess permanent inmates in order to identify the needs for intervention, the default risk of suicide. Evaluations should be carried out on the basis of assessment tools made available by the specialized directorate of the National Administration of Penitentiaries.

In 2017, the Ombudsman Institution through NPM officially notified the case of a detainee who has been hanged in the Rahova Penitentiary following the refusal of the penitentiary management to allow him to attend the funeral of his brother. Following the visit to the Rahova Penitentiary, NPM recommended to the National Administration of Penitentiaries to initiate the proposal to amend the legal provisions within the meaning of the regulation the right to leave the penitentiary in the case of the death of a family member, with the obligation of the penitentiary authority to undertake the necessary care to obtain information on the death of the family member being also notified the Ministry of Justice.

Considering that the expenses incurred for making telephone calls are supported by the convicted persons, NPM recommended initiating the proposal to amend the legal provisions as in exceptional circumstances (for example, the death of a family member in case of a detained without money, who had no money available in the last 30 days), the penitentiary authority to support telephone contact with the family. The National Administration of Penitentiaries replied that this was included in the draft amendment to the law no. 254/2013, drafted at the level of the National Administration of Penitentiaries, to be submitted to the Ministry of Justice in order to initiate specific measures in order to promote it.

NPM recommended to the Bucharest Rahova Penitentiary to inform the detainees of the solution of the award committee on signature basis. The National Administration of Penitentiaries sent the subordinate units that the decision of the reward committee to grant / not grant reimbursement with permission to leave the penitentiary for "the participation of the convicted person in the burial of the spouse, child, parent, brother or sister or grandfather or grandmother" provided by art. 99 par. 1 letter e) of the law no. 254/2013, be immediately brought to the attention of convicted persons. NPM recommended to the Rahova Penitentiary the psychological counseling of convicted persons in the case of the death of a family member in order to identify depression or suicidal ideation / intent; the psychological counseling of suicide prisoners, those with self-aggression and increased violence, and the development of group programs for suicide-risk groups by the end of 2017 being also notified the Ministry of Justice.

NPM recommended to the Bucharest Rahova Penitentiary management the frequent training of prison staff, regardless of their activity, on the recognition, understanding and approaching of signs of suicidal behavior for staff who are in contact with detainees, and for clinical staff the use of suicide risk assessment scales, and the procedure to follow in such situations. In the reply sent by the management of the National Administration of Penitentiaries it was mentioned that, by the decision of the general director of the National Administration of Penitentiaries no. 631/2014, the guideline "Clinical Manual of the Violence Risk" has been implemented in penitentiary units. It was promoted and disseminated among the specialists in the penitentiary units the "Psychopathology Manual intended for psychologists in the penitentiary system"

9. Deputy Protector of citizens of the Republic of Serbia, Mr. Miloš Janković

NATIONAL MECHANISMS FOR THE PREVENTION OF TORTURE WITHIN THE WIDE MANDATE INSTITUTIONS – FOCUS ON THE INDEPENDENCE



Abstract: The prohibition of torture is prescribed in numerous relevant international instruments, starting with the Universal Declaration on Human Rights. Today, the main document is the Convention against torture, which gives the universally accepted definition of torture. States obligation is to criminalize torture on the national levels. Barring in mind the necessity of the prevention of torture, numerous States became State parties of the Optional Protocol on the Convention against Torture and established or designated national mechanisms for the prevention of torture (NPM) – places of detention visiting bodies. The fundamental issue of the NPM is establishing and preserving their independency, which should be guaranteed by the State. Particular problem is independency of wide mandate institution designated as

NPM, as well as the autonomy in performing NPM activities within that institution. Full organizational, functional and financial autonomy of special organizational unit or department inside the wide mandate institution should be established, in order to have the efficient, independent NPM. In this article, basic principles for the achievement of independency of the NPM within the wide mandate institution are elaborated in detail.

Key words: NPM, OPCAT, National Preventive Mechanism, Prevention of Torture, Ombudsman, NHRI, Independence, Autonomy.

1. INTRODUCTION

The Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) and National Preventive Mechanisms (NPM) are frequently confronted with the issue of independent performing the mandate of national visiting bodies for the prevention of torture and other cruel, inhuman or degrading treatment or punishment, established by virtue of the Optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). Bearing in mind provisions of the OPCAT, particularly controversial is the independence issue of the already existing institutions with wide mandate (ombudsman, commissioners or other human rights institutions) designated as NPM.

2. BACKGROUND

2.1. *Prohibition of Torture in international instruments*

The prohibition of torture is declared in number of important international documents on human rights. The Universal Declaration of Human Rights,¹⁵ proclaimed by the United Nations General Assembly in Paris, on 10 December 1948, prescribes that “torture and all other kind of cruel, inhuman and degrading treatment is prohibited”.¹⁶ Since the adoption of the Universal Declaration “the United Nations has played a key role in developing human rights standards and mechanisms to monitor their implementation”.¹⁷ Most important international instrument for prohibition of torture is the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT),¹⁸ adopted by UN General Assembly on 10 December 1984, entry into force 26 June 1987.

2.2. *Prohibition of Torture in national legislation*

Prohibition of torture is commonly defined in Constitutions and national laws, by the same or very similar wording as it is stated in the Universal Declaration of Human Rights. For example, in the Constitution of the Republic of Serbia, it is prescribed that “nobody may be subjected to torture, inhuman or degrading treatment or punishment”.¹⁹ Furthermore, it is stated that “persons deprived of liberty must be treated humanely and with respect to dignity of their person”²⁰ as well as that “any violence towards persons deprived of liberty shall be prohibited”.²¹

2.3. *Definition of torture*

Commonly, torture is understood as “the action or practice of inflicting severe pain on someone as a punishment or to force them to do or say something, or for the pleasure of the person inflicting the pain”²². The legal definition of torture in human rights law differs quite significantly from the way the term is commonly used in the media or in general conversation.²³

Article 1 of the CAT represents the internationally agreed legal definition: “Torture means 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

¹⁵ The Universal Declaration of Human Rights, General Assembly resolution 217 A, <http://www.un.org/en/universal-declaration-human-rights/>, accessed on April 1, 2017.

¹⁶ Universal declaration on human rights, article 5.

¹⁷ Association for Prevention of Torture, <http://www.apr.ch/en/torture-prevention-and-the-un/>, accessed on April 1, 2017.

¹⁸ UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

¹⁹ Constitution of Republic of Serbia, Article 25, paragraph 2.

²⁰ Ibid, Article 28, paragraph 1.

²¹ Ibid, Article 28, paragraph 2.

²² Oxford Dictionary, <https://en.oxforddictionaries.com/definition/us/torture>, accessed on April 1, 2017.

²³ Association for Prevention of Torture (APT), <http://www.apr.ch/en/what-is-torture/>, accessed on April 1, 2017.

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. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions”.²⁴

This definition contains four cumulative elements: 1) the intentional infliction; 2) the pain or suffering, whether physical or mental; 3) involvement of public official, directly or indirectly; and 4) the specific purpose such as obtaining information or confession; punishment; intimidation or coercing; or for any reason based on discrimination.

2.4. *Criminalisation of torture*

The UN Committee against Torture reiterated several times its recommendation that “the State party should incorporate into its criminal law a definition of torture that is in strict conformity with article 1 of the Convention”.²⁵ In the Concluding observations on the Second Periodic report of Serbia, the Committee “urges the State party to promptly implement the legislative measures necessary to harmonize the provisions of the Criminal Code dealing with torture and align them with the definition contained in article 1 of the Convention”²⁶. Sir Malcolm Evans gave great contribution in understanding that the criminalisation of torture is a part of the human right framework, as well as highlighted distinction between “human rights” and “criminal law” perspective in this matter.²⁷

3. PREVENTION OF TORTURE

3.1. *Prevention of torture*

Risks of torture exist in any time, in any country, in “any place under its jurisdiction and control where persons are or may be deprived of their liberty, either by virtue of an order given by a public authority or at its instigation or with its consent or acquiescence”.²⁸ “Torture prevention is a global strategy that intends to reduce these risks and create an environment where torture and ill-treatment are less likely to occur”.²⁹

²⁴ UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Article 1.

²⁵ UN Committee against Torture, List of issues to be taken up in connection with the consideration of the fourth to sixth periodic reports of France (CAT/C/FRA/4-6), <http://www2.ohchr.org/english/bodies/cat/docs/CAT.C.FRA.Q.4-6.pdf>, accessed on April 1, 2017.

²⁶ UN Committee against Torture, Concluding observations on the second periodic report of Serbia, 3 June 2015, (CAT/C/SRB/CO/2), http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/SRB/CO/2&Lang=En, accessed on April 1, 2017.

²⁷ Malcolm D Evans, “The criminalisation of torture as a part of the human right framework”, Crimen, http://www.ius.bg.ac.rs/crimenjournal/articles/crimen_002-2014/Crimen%20-2014%20-2002%20Malcolm%20D%20Evans.pdf, accessed on April 1, 2017.

²⁸ Optional Protocol to the Convention against torture (OPCAT), article 1, paragraph 1.

²⁹ Association for Prevention of Torture (APT), <http://www.apr.ch/en/what-is-torture-prevention/>, accessed on April 1, 2017.

According to the Association for Prevention of Torture (APT) “prevention of torture requires a three-stages approach that is best summarised in a “House of prevention”: 1) “The foundation” – an effective legal framework must be in place that both prohibits and prevents torture and ill-treatment, as well as legal safeguards; 2) “The walls” – these laws and regulations need to be applied in practice. Implementation is achieved through training (of the police and other actors), development of procedural safeguards (video-recording of interrogations; registers in prisons) as well as through sanctions in case of non-respect of the law. All these interventions would form the “walls of the house”; and “The protective roof” – control mechanisms should be in place in order to check both whether the legal framework exists and whether it is implemented. Regular visits to places of detention by independent bodies, in particular National Preventive Mechanisms, constitute one of these control mechanisms. In addition, the media as well as recommendations by international human rights bodies would also serve as control mechanisms”.³⁰

3.2. *Optional Protocol to the Convention against Torture*

There are numerous instruments and mechanisms for the prevention of torture. On the universal level, the most important is the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT),³¹ which was adopted on 18 December 2002 by the General Assembly of the United Nations, and entered into force on 22 June 2006.

Today, there are 83 States Parties and 16 additional States signatories of OPCAT.³² Serbia is the State Party of OPCAT starting from 2006, by Law on Ratification of OPCAT.³³

OPCAT is a unique international human rights treaty which assists States to prevent torture and other forms of ill-treatment. It stands in addition to the CAT,

its parent treaty, rather than replacing it.³⁴ The objective of the OPCAT is to prevent torture and other ill-treatment by establishing a system of regular visits undertaken by independent international and national bodies to places where people are deprived of their liberty, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment.³⁵ International body established by virtue of OPCAT is Subcommittee on Prevention of Torture (SPT). National bodies are NPMs, established or designated by OPCAT State Parties. OPCAT bodies work in close cooperation with national authorities, identifying gaps in laws and practice to protect the rights and dignity of all persons deprived of their liberty.

³⁰ Ibid.

³¹ OPCAT, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPCAT.aspx>, accessed on April 1, 2017.

³² <http://www.apr.ch/en/opcat-database/>; <http://indicators.ohchr.org/>, accessed on April 1, 2017.

³³ Ombudsman of the Republic of Serbia, “Setting-up of National Preventive Mechanism in Serbia, Initial 6 months: Getting ready, no monitoring”, January 2012, http://www.npm.lis.rs/attachments/017_--%20-%20SERBIA%20NPM%20SETTING-UP.pdf, accessed on April 1, 2017.

³⁴ Association for Prevention of Torture, *Optional Protocol to the UN Convention against Torture, Implementation Manual*, page 11, 2010, http://www.apr.ch/content/files_res/opcat-manual-english-revised2010.pdf, accessed on April 1, 2017.

³⁵ OPCAT, article 1.

Today, 65 States have established or designated their NPM³⁶. Serbia designated NPM by the Law on amending the Law on Ratification of OPCAT, adopted on 28 July 2011. It is prescribed that the Protector of Citizens (Ombudsman) shall operate a NPM function, in cooperation with ombudsmen of autonomous provinces and NGOs.³⁷

3.3. National prevention mechanism (NPM)

The OPCAT prescribes that “each State Party shall maintain, designate or establish one or several independent national preventive mechanisms for the prevention of torture at the domestic level”.³⁸

The NPMs shall be granted at a minimum the power: (a) To regularly examine the treatment of the persons deprived of their liberty in places of detention; (b) To make recommendations to the relevant authorities with the aim of improving the treatment and the conditions of the persons deprived of their liberty and to prevent torture and other cruel, inhuman or degrading treatment or punishment; (c) To submit proposals and observations concerning existing or draft legislation.³⁹

In order to enable the NPMs to fulfil their mandate, the States Parties to the OPCAT should grant them: (a) Access to all information concerning the number of persons deprived of their liberty in places of detention; (b) Access to all information referring to the treatment of those persons as well as their conditions of detention; (c) Access to all places of detention and their installations and facilities; (d) The opportunity to have private interviews with the persons deprived of their liberty without witnesses, as well as with any other person who the national preventive mechanism believes may supply relevant information; (e) The liberty to choose the places they want to visit and the persons they want to interview; and (f) The right to have contacts with the Subcommittee on Prevention, to send it information and to meet with it.⁴⁰

3.4. Models of NPMs

OPCAT does not define any structure or model for the NPM. It means that it is left to each State to make the decision on profiling its NPM, depending on its own national context and institutional landscape. So far, several models have emerged:

1) Creating a new and specialised body on torture prevention, as in France, Germany and Italy; 2) Designating a National Human Rights Commission, as in Turkey, Uruguay and Maldives, or Ombudsman Institution, as in Spain, Poland and Montenegro; 3) Designating an Ombudsman Institution with formal involvement of civil society organisations, as in Denmark, Slovenia and Ukraine; 4) Designating an Ombudsman Institution with formal involvement of regional Ombudsman Institutions and civil society

³⁶ <http://www.apt.ch/en/opcat-database/>, accessed on April 1, 2017

³⁷ Ombudsman of the Republic of Serbia, “Setting-up of National Preventive Mechanism in Serbia, Initial 6 months: Getting ready, no monitoring”, January 2012, http://www.npm.ils.rs/attachments/017_-%20-%20SERBIA%20NPM%20SETTING-UP.pdf, accessed on April 1, 2017.

³⁸ OPCAT, article 17.

³⁹ Ibid, article 19.

⁴⁰ Ibid, article 20.

organisations, as in Serbia; 5) Designating an Ombudsman Institution with formal involvement of specific regional NPM Commissions, as in Austria; and 6) Designating several institutions to serve the purpose of the NPM, as in UK, Brazil and Argentina.⁴¹

4. INDEPENDENCE AND AUTHONOMY OF NPM WITHIN WIDE MANDATE INSTITUTIONS

The present document is not focused on mechanisms such as new institutions exclusively established as NPM, nor on models of several institutions, newly established or already existed, which are designated as NPM. Focus is on the most common model of NPM. Namely, in the large number of State parties of the OPCAT, already existing institutions with wide mandate (mostly like ombudsman, commissioners or other human rights institutions) are designated as NPM. It means that those institutions, besides their origin mandate, get an additional mandate, NPM mandate, unfortunately usually without previously reviewing their capacities and compatibility for parallel performing heterogeneous duties.

4.1. Independence of the NPM

Independence is *conditio sine qua non* for the NPM, it is a precondition to efficient carrying out of the missions assigned to it by the OPCAT.

The importance of NPM independence is emphasized in the OPCAT: 1) “the objective of the present Protocol is to establish a system of regular visits undertaken by independent international and national bodies... to places where people are deprived of their liberty, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment”;⁴² 2) “each State Party shall maintain, designate or establish one or several independent national preventive mechanisms for the prevention of torture at the domestic level”;⁴³ 3) “The States Parties shall guarantee the functional independence of the national preventive mechanisms as well as the independence of their personnel”;⁴⁴ 4) “the States Parties undertake to make available the necessary resources for the functioning of the national preventive mechanisms”;⁴⁵ and 5) “When establishing national preventive mechanisms, States Parties shall give due consideration to the Principles relating to the status of national institutions for the promotion and protection of human rights”.⁴⁶

Subcommittee Guidelines on national preventive mechanisms⁴⁷ provides further clarities regarding the expectations of the Subcommittee in the regard of the independency of NPMs: 1) “the operational independence of the NPM should be guaranteed”;⁴⁸ 2) “the

⁴¹ <http://www.apt.ch/en/list-of-designated-npm-by-regions-and-countries/>, accessed on April 1, 2017.

⁴² OPCAT, article 1.

⁴³ *Ibid*, article 17

⁴⁴ *Ibid*, article 18 (1)

⁴⁵ *Ibid*, article 18 (3)

⁴⁶ *Ibid*, article 18 (4)

⁴⁷ Subcommittee Guidelines on national preventive mechanisms, CAT/OP/12/5, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/OP/12/5&Lang=en, accessed on April 1, 2017.

⁴⁸ *Ibid*, paragraph 8.

relevant legislation should specify the period of office of the member/s of the NPM and any grounds for their dismissal. Periods of office, which may be renewable, should be sufficient to foster the independent functioning of the NPM”;⁴⁹ 3) “the necessary resources should be provided to permit the effective operation of the NPM in accordance with the requirements of the Optional Protocol”;⁵⁰ 4) “the NPM should enjoy complete financial and operational autonomy when carrying out its functions under the Optional Protocol”;⁵¹ 5) “the effective operation of the NPM is a continuing obligation. The effectiveness of the NPM should be subject to regular appraisal by both the State and the NPM itself, taking into account the views of the SPT, with a view to its being reinforced and strengthened as and when necessary”;⁵² 6) “the State should ensure the independence of the NPM by not appointing to it members who hold positions which could raise questions of conflicts of interest”;⁵³ and 7) “the State should ensure that both the members of the NPM and its staff enjoy such privileges and immunities as are necessary for the independent exercise of their functions”.⁵⁴

Additionally, Subcommittee Guidelines on national preventive mechanisms particular attention dedicates to cases where the institutions with wide mandate are designated as NPM: “Where the body designated as the NPM performs other functions in addition to those under the Optional Protocol, its NPM functions should be located within a separate unit or department, with its own staff and budget”.⁵⁵

Further, special attention is paid on planning NPM activities. It is prescribed that “the NPM should establish a work plan/programme which, over time, encompasses visits to all, or any, suspected, places of deprivation of liberty”,⁵⁶ and “the NPM should plan its work and its use of resources in such a way as to ensure that places of deprivation of liberty are visited in a manner and with sufficient frequency to make an effective contribution to the prevention torture and other cruel, inhuman or degrading treatment or punishment”.⁵⁷

4.2. Independence of institutions with wide mandate designated as NPM

Independence of Ombudsman institutions, Commissioners or other human rights institutions, which are designated as NPM, varies from country to country. Bearing in mind provision of the OPCAT: “when establishing national preventive mechanisms, States Parties shall give due consideration to the Principles relating to the status of national institutions for the promotion and protection of human rights”,⁵⁸ those institutions

⁴⁹ Ibid, paragraph 9.

⁵⁰ Ibid, paragraph 11.

⁵¹ Ibid, paragraph 12.

⁵² Ibid, paragraph 15.

⁵³ Ibid, paragraph 18.

⁵⁴ Ibid, paragraph 26.

⁵⁵ Ibid, paragraph 32.

⁵⁶ Ibid, paragraph 33.

⁵⁷ Ibid, paragraph 34.

⁵⁸ OPCAT, article 18, paragraph 4.

designated as NPM should act in the accordance with the Paris Principles,⁵⁹ adopted by General Assembly on 20 December 1993. Independency should be prescribed by law, preferably by constitution. Those institutions should be completely separate and independent of executive power. National legislation should prescribe guaranties on their mandate and immunities, as well as their protection against reprisals. Indicator on their independence may be their status as National Human Rights Institution, through their accreditation by UN GANHRI Sub-Committee on Accreditation.⁶⁰

4.3. *Conflict in performing different mandates by institutions designated as NPM*

By virtue of national legislation, Ombudsman institutions, Commissioners or other human rights institutions, which are designated as NPM, commonly have wide, extensive mandate in protection and promotion of human rights. For those institutions prevention of torture presents their additional mandate, which became one of many issues that they are faced with in performing their responsibilities. There is a risk that they would not recognize their NPM role as significant and attractive activity as their role in protection of rights of children, rights or persons with disabilities, rights of LGBTI, or gender equality rights.

As a result of existing institutions wide mandate, the exercising of NPM work unfortunately quite frequently is not planned and determined primarily according to the real needs and in order to achieve NPM mandate. Those activities are commonly strictly balanced and limited in relation to prerogatives and obligations of those institutions in other areas of their mandate. Prevention of torture might be recognized, in some cases, as one of their additional burdensome duties.

Pursuant to the aforesaid, Heads of those institutions (Ombudspersons, Commissioners...) are rarely members of visiting teams to places of detention, which is in the opposite with the main objective of the OPCAT– performing visits to places of detention: “The objective of the present Protocol is to establish a system of regular visits undertaken by independent international and national bodies to places where people are deprived of their liberty, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment”⁶¹. The result of the foregoing is that Heads of those institutions do not have enough knowledge and experience in torture prevention work. In this regard, they delegate leadership in performing the NPM work to their deputies or other staff members. On the other side, they are retaining for themselves to make substantial decisions. Among other, they are making the *final cut* in finalizing the reports and recommendations, although they were not members of the visiting team in concrete visits to places of detention.

⁵⁹ Principles relating to the Status of National Institutions (The Paris Principles), UN resolution 48/134, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/StatusOfNationalInstitutions.aspx>, accessed on April 1, 2017.

⁶⁰ GANHRI, Sub-Committee on Accreditation, <http://nhri.ohchr.org/EN/Pages/default.aspx>, accessed on April 1, 2017.

⁶¹ OPCAT, article 1.

Further, very problematic is fact that most of those existing institutions designated as NPM have prominent reactive approach, mainly based on the handling of complaints in individual cases. Carrying out the mandate of NPM, primarily its preventive approach, is in contrary with their ordinary reactive work. Ordinary, they do not recognize the exclusivity of the NPM preventive approach, and they do not understand that it is not appropriate to mix reactive work on complaints in individual cases with NPM preventive activities. In accordance to that, staff members of those institutions mainly perform mandate of NPM and their duties of handling complaints in individual cases, in parallel.

4.4. *Independence in performing mandate of NPM by wide mandate institutions*

Independency of the institutions designated as NPM depends on various factors: 1) The mandate and powers of the national preventive mechanism should be clearly set out in a constitutional or legislative text;⁶² 2) The operational independence of the national preventive mechanisms should be guaranteed;⁶³ 3) The relevant legislation should specify the period of office of the member/s of the national preventive mechanism and any grounds for their dismissal. Periods of office, which may be renewable, should be sufficient to foster the independent functioning of the national preventive mechanism;⁶⁴ 3) The necessary resources should be provided to permit the effective operation of the national preventive mechanism in accordance with the requirements of the Optional Protocol;⁶⁵ 4) The national preventive mechanism should enjoy complete financial and operational autonomy when carrying out its functions under the Optional Protocol;⁶⁶ 5) The effective operation of the national preventive mechanism is a continuing obligation. The effectiveness of the national preventive mechanism should be subject to regular appraisal by both the State and the national preventive mechanism itself, taking into account the views of the Subcommittee, with a view to its being reinforced and strengthened as and when necessary;⁶⁷ 6) The independence of the national preventive mechanism should be ensured by not appointing to it members who hold positions which could raise questions of conflicts of interest;⁶⁸ 7) The members of the national preventive mechanism and its staff should enjoy such privileges and immunities as are necessary for the independent exercise of their functions;⁶⁹ 8) The national preventive mechanism should establish a work plan which, over time, encompasses visits to all, or any, suspected, places of deprivation of liberty. The national preventive mechanism should plan its work and its use of resources in such a way as to ensure that places of deprivation of liberty are visited in a manner and with sufficient frequency to make an effective contribution to the prevention torture and other cruel, inhuman or degrading treatment or punishment.⁷⁰

⁶² Subcommittee Guidelines on national preventive mechanisms, paragraph 7.

⁶³ Ibid, paragraph 8.

⁶⁴ Ibid, paragraph 9.

⁶⁵ Ibid, paragraph 11.

⁶⁶ Ibid, paragraph 12.

⁶⁷ Ibid, paragraph 15.

⁶⁸ Ibid, paragraph 18.

⁶⁹ Ibid, paragraph 26.

⁷⁰ Ibid, paragraph 33.

4.5. *Autonomy in performing the mandate of the NPM inside the institution with wide mandate*

As it is stated, the OPCAT does not define any structure or model for the NPM. Most State Parties of OPCAT, respecting their national context and institutional landscape, designated already existing institutions with wide mandate (ombudsman, commissioners or other human rights institutions) as NPM.

Bearing in mind that the mandate of already existing institutions with wide mandate designated as NPM is to perform other functions in addition to those under the OPCAT, it should be established higher level of autonomy in performing NPM functions inside the office of those institutions. There is only one provision in the Subcommittee Guidelines on national preventive mechanisms which is dedicated to such cases: “Where the body designated as the NPM performs other functions in addition to those under the Optional Protocol, its NPM functions should be located within a separate unit or department, with its own staff and budget”.⁷¹

Considering all the aforementioned, in the aim to establish principles of autonomy in performing the mandate of the NPM within the wide mandate institution, it may be concluded:

1. The separate unit or department inside the wide mandate institution designated as NPM should not perform any activity which is not in line with the torture preventive role prescribed by OPCAT, primarily dealing with complaints in individual cases. Furthermore, mixture of activities of NPM with activities of mechanisms established by other international instruments (i.e. Convention on the Rights of Persons with Disabilities mechanism) is not in accordance with OPCAT and creates inadmissible confusion of mandates.
2. The NPM separate unit or department inside the wide mandate institution designated as NPM should have its own staff. Number of staff members should be sufficient for successful fulfilment of all activities of the NPM.
3. The staff of separate unit or department inside the wide mandate institution designated as NPM should exclusively perform functions under the OPCAT, and they should not be engaged in performing of any other activities, especially they should not participate in the reactive work – handling complaints in individual cases.
4. Period of office of all staff members of separate unit or department inside the wide mandate institution designated as NPM as well as any grounds for their dismissal should be specified by the relevant legislation. Periods of office, which may be renewable, should be sufficient to foster the independent functioning of the NPM.
5. The staff of separate unit or department inside the wide mandate institution designated as NPM should enjoy such privileges and immunities as are necessary for the independent exercise of their functions prescribed by the OPCAT.
6. The separate unit or department inside the wide mandate institution designated as NPM should enjoy financial autonomy in carrying out its functions under the OPCAT. It should be established separate financial plan and budget for fulfillment of the mandate of the NPM. Taking into account that budget of wide mandate institution

⁷¹ Ibid, paragraph 32.

designated as NPM is unique budget, as well as the existence of legal obstacles to establish additional budget of an institution, solution would be the creation of the separate budget line as a part of the general budget of the wide mandate institution designated as NPM.

7. The separate unit or department inside the wide mandate institution designated as NPM should periodically and annually propose work plans of the NPM to the head of the institution designated as NPM. Work of the NPM should be planned in such a way as to ensure that places of deprivation of liberty are visited in a manner and with sufficient frequency to make an effective contribution to the prevention of torture. Work plan should, over time, encompass visits to all, or any, suspected, places of deprivation of liberty, as set out in Articles 4 and 29 of the OPCAT, which are within the jurisdiction of the State.
8. It would not be acceptable if work plans of the NPM proposed to the head of the wide mandate institution designated as NPM would not be adopted by them without reasonable arguments. Proposed working plans for fulfillment of activities of NPM should not be decreased by decision of the head of the wide mandate institution designated as NPM as a result of their intention to make balance with intensity in performing other activities of institution.
9. Budget for performing mandate of NPM should be planned according to the real needs to achieve mandate of NPM, in such a way as to ensure that places of deprivation of liberty are visited in a manner and with sufficient frequency in order to make an effective contribution to the prevention of torture. Budgetary plans for fulfillment of activities of NPM should not be decreased by decision of the head of the wide mandate institution designated as NPM as a result of their intention to relocate the budgetary funds earmarked for the NPM purpose in order to fulfil other activities of the wide mandate institution designated as NPM.
10. The separate unit or department inside the wide mandate institution designated as NPM should prepare reports following visits to places of detention, as well as periodical and annual reports on the work of NPM. When appropriate, reports should contain recommendations addressed to the relevant authorities. The recommendations of the NPM should take into account the relevant norms of the United Nations in the field of the prevention of torture and other ill-treatment, including the comments and recommendations of the Subcommittee. It would not be acceptable if those reports and recommendations addressed to the authorities, proposed to the head of the wide mandate institution designated as NPM, would not be adopted by them without reasonable arguments. It is preferable that annual reports of NPM are not part of general annual report of the wide mandate institution designated as NPM.

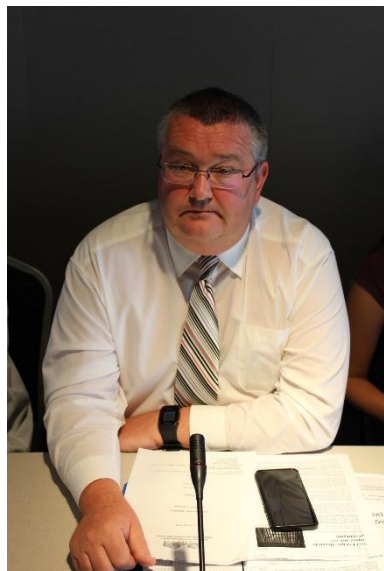
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10. Deputy Ombudsman and Head of the NPM of Slovenia, Mr. Ivan Šelih and Spec., Senior Adviser, Mr. Robert Gačnik

Prison suicide prevention program in Slovenia



The data source from the presentation is from Ministry of Justice, National Prison Administration

Number of suicides by method of death (1995 – 2017)

Method	Number of suicides		
	1995-2003	2004-2017	1995 - 2017
Hanging	23	18	41
Overdose	5	1	6
Cutting	2	2	4
Total	30	21	51

Number of suicides by status (1995 – 2017)

Status	Number of suicides	Total		
		1995-2003	2004-2017	1995-2017
Pretiral detainees	15	11	26	1
Prisoners	11	9	20	0
Misdemeants	2	0	2	0
Juveniles	2	0	2	0
Court detainess	2	1	1	0
Total	30	20	51	1

In 2016 was 371 suicides in Slovenia

Suicide prevention strategy (the strategy was adopted in 2003 and supplemented in 2013)

- Staff training
- Systematic suicide screening on admission
- Handling the potentially suicidal inmates
- Intervention
- Follow-up review and debriefing
- Evaluation

Staff training

- Values of the staff (think, feel, act) - about suicide, about inmates
- Can suicide be prevented? (readiness and skill)
- Why are correctional environments conducive to suicidal behavior
- Signs and symptoms of suicidal behaviour
- High-risk suicide periods
- Assessing suicide risk (screening)
- Supervision and support of suicidal inmates
- Case studies

Suicide prevention screening tool

PERSONAL DATA

- Lacks close family or friends in the community
- History of drug or alcohol abuse
- Psychiatric history
- Holds position or respect in community or/and shocking crime
- Previous suicide attempt
- Thinking about killing himself

BEHAVIOUR/APPEARANCE

- signs of depression (crying, apathy, emotional flatness...)
- anxious, afraid, angry
- strange (unusual behaviour, disorientation, ...)
- Under influence of alcohol or drugs
- Signs of withdrawal (alcohol)

- First time in prison

Why correctional environments are conducive to suicidal behaviour

- Authoritarian environment
- No apparent control over the future – uncertainty
- Isolation from family, friends and community
- The shame of incarceration
- Dehumanization (viewed from inmates perspective)
- Fears (based on stereotypes of prison)
- Insensitivity of the staff (viewed from inmates perspective)

Handling the potentially suicidal inmates

- Communication
- Housing
- Levels of supervision - electronic monitoring

- Treatment and support
 - seriously depressed
 - chronic self-harmers
 - aggressive to staff

So-called Manipulative Attempts

- They want to avoid the concept of “manipulation”.
- Every case must be taken seriously. “Manipulation” can result in death.
- Inattention may lead to more dramatic risks/acts.

Intervention

- Trained staff
- First aid equipment
- Treatment and support
 - psychological
 - psychiatric

Follow-up review and debriefing

- Circumstances surrounding the incident
- Psychological analysis
- Procedures relevant to the incident
- Recommendations for changes
- Debriefing
 - Support for staff
 - Support for involved inmates

High-risk suicide periods

- First 24 hours – first week
- Intoxication and when sobering up
- Waiting for trial
- Impending release
- Decreased staff supervision (weekends, nights, shift changes,...)
- Bad news of any kind

11. Expert adviser in Office of the Human Rights Ombudspersons of Bosnia and Herzegovina, Mrs. Dejana Kozomara



First I would like to thank the organizer, our friends from the institution of the Ombudsman of Montenegro for the invitation to have the representatives of the Ombudsman institution of Bosnia and Herzegovina present at the meeting of the Network this year as well. I may say now that we are regularly present at the Network meetings and that the organizers of these meetings give us the opportunity to take part on equal foot as the other Network members although, unfortunately, we still have not established the preventive mechanism. Such treatment by the Network members shows us trust and support and we all, together, hope to arrive at some of the following meetings of this Network before Bosnia and Herzegovina as the representatives of the preventive mechanism. Until that happens, we will certainly use these meetings to hear about

the experiences shared among the Network members on particular topics and issues related to the work of their preventive mechanisms, to gather the knowledge necessary and any materials that may be of use to us.

Our serious preparation to assume the role of the national preventive mechanism is also supported by the fact that, within the implementation of the Project on strengthening of the capacities of the Ombudsman institution of Bosnia and Herzegovina with the aim to implement the mandate of the Preventive Mechanism, activities have been undertaken to train the staff of the Ombudsman institution. This Project has been implemented with the support of the Embassy of the Republic of Bulgaria by organizing a training session in April this year in Banja Luka for the staff of the institution of the Ombudsman for human rights of Bosnia and Herzegovina. The aim of the training, conducted by a team of experts/representatives of the Ombudsman of the Republic of Bulgaria, was to introduce the work and the functioning of the National Preventive Mechanism in Bulgaria. The team was composed of three experts from the NPM Bulgaria, and the training itself consisted of two segments, theoretical and practical part which included visits to the Correctional facility Banja Luka, Psychiatric Clinic in Banja Luka, and the Police Department of Banja Luka.

The first day of training comprised the theoretical part of the education where the experts from the Republic of Bulgaria briefly discussed the origin of Bulgarian NPM, the methodology of their visits, their function, method of reporting, and the level of implementation of the recommendations issued.

The other two days included field work, i.e. visits to the above mentioned facilities, where the education participants and educators were presented the work and organization of the facilities by their management, who also responded to all questions of the participants. Although the preventive mechanism still has not been established in Bosnia and Herzegovina, the tasks of this mechanism are partially covered by the Ombudsman institution, i.e. there are two departments within the institution – the Department for the Protection of the Rights of Detainees/Prisoners and the Department for the Protection of the Rights of Persons with Disabilities. This is also supported by the fact that the activities of the Department for the Protection of the Rights of Persons with Disabilities have resulted in the publication of the Special Report on the Status of Human Rights in Facilities for Placement of Persons with Mental Disability in Bosnia and Herzegovina, which was presented to the relevant authorities and to the public last week.

Since I am expert advisor in the Department for the Protection of the Rights of Detainees/Prisoners, I will briefly present the work of this Department. The statistical data in 2017 show that this Department received 135 complaints and, as in previous years, the majority of those related to the dissatisfaction with the quality of the provided health care, the issue of using non-institutional benefits, the conditions of accommodation, treatment and exercise of employment.

What is certainly noticeable and what the Ombudsman institutions have pointed out to, and what is also the topic of this Conference, is that there is a pronounced problem of drug addiction of the convicts in certain correctional institutions in Bosnia and Herzegovina and these persons are most often more inclined to suicide.

In Bosnia and Herzegovina, we have examples of certain correctional institutions that are located at the centre of town, for example Correctional Facility Mostar, where narcotics are more accessible; we often have cases where narcotics are thrown over the fence of the facility to the convicts during their walks. What we noticed during our visits is that in different correctional facilities convicts who have drug addiction are treated differently as certain facilities still use methadone therapy in treatment of these persons while others have given up on this therapy since they believe that it is solely prolongation of drug addiction and therefore they seek other methods and models of treatment. What is also evident is that convicts who are drug addicts and suffer from certain mental illnesses require special treatment. These are mostly persons who are highly prone to manipulation, the process of their re-socialization is rather difficult and therefore they require more attention from the staff in these facilities, in particular from educators, health workers, security officers and other staff. In that view, care must be paid when classifying these persons within the facility and, if possible, they should be provided with the necessary support from their family, the staff and the broader community so that they can overcome the problem they are facing. In the last couple of years, according to the Ombudsman's knowledge, there were no cases of overdose, although all correctional institutions have problems with drug addiction of convicts and treatments of these persons, which also implies the higher risk of overdose of these persons. This is also supported by the fact that not all facilities have established the full scope of health care since there are still facilities that do not have a full-time employed medical doctor.

In such situations, help is needed not only for those persons but also for the staff dealing with them on daily basis and facing various types of challenges. They need to be provided with additional and necessary education in certain areas in order to facilitate their work with this category of persons. This was also recognized by the Council of Europe and they provided the funds required for the implementation of education of the staff in the facilities for the execution of criminal sanctions. In particular, the Council of Europe, together with the representatives of the correctional institutions, published the Guidelines for developing treatment programmes and individual sentence plans for vulnerable categories of prisoners in prisons in Bosnia and Herzegovina. This document is not binding but is certainly facilitates the work of the staff since it contains individual treatment programmes per individual vulnerable category. The Ombudspersons also took part in the development of this document and gave their modest contribution.

At the end, I would like to highlight that although we still have not established the preventive mechanism, we are making efforts to assume this function and the tasks of this mechanism to the largest extent possible. In the last month, there were two suicides in police stations and these cases in particular prove that there is a need for the Ombudsman to examine the reasons that led to the suicides and to start the monitoring of the police stations.

12. Representative of Ombudsman Kosovo⁷², Mrs. Hasime Terziqi



As Kosovo NMPT we have always acted in accordance with the Suicide Prevention Strategy, the Council of Europe standards and CPT standards relating to suicide prevention. I would like to particularly stress the recommendations in connection with the most important points of this topic such as the importance of: medical examination upon arrival, awareness of the staff and need for their training, risk assessment issues, safe prison environment, importance of multisectoral cooperation, etc. Suicide rate in prisons, when observed globally, is much higher than that of general population. This fact poses one of the key challenges to correctional systems worldwide.

One of the fundamental principles of all suicide prevention strategies is that suicide prevention is a joint responsibility within the system of institutions, and there is a considerable and increased duty to care and be responsible for inmates and detainees accommodated in the correctional system, with higher obligations of the government to protect people it keeps in detention. To that extent, correctional services must have a strong suicide prevention strategy and are responsible for any suicide committed in detention. In 2017, 33 attempted suicides were recorded.

Seriousness of suicide attempts and self-harm is evaluated by psychiatrists and psychologists. In the same year, there were 268 cases of self-harm which compared to 2010 rose four times. On average, one suicide is recorded every third year. This rate is much lower than in Kosovo community.

Attention should be paid to general prison environment (meaningful activities and time spent out of cells, safety, culture, and staff-inmate relationships). In particular, the quality of social climate in prison is of key importance for the reduction of suicidal behavior. While prisons should never represent stressful environment, prison administrators have to adopt efficient strategies to minimize violence in their institutions and maximize the support to inmate-staff relationships. The quality of employees is crucial for reducing the stress level among inmates and increasing the probability that inmates will voluntarily share with the staff their feelings of being burdened, hopeless, or having any suicidal ideas.

Accordingly, there has to be a mechanism which maintains communication between the staff members and inmates at high risk together with written procedures defining minimum requirements for accommodation of high-risk inmates; provision of social

⁷² This designation is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo Declaration of Independence.

support; routine visual checks and appropriate use of restrictions as the last resort to exert control over the inmate with self-inflicted injuries.

Persons with mental disorders who need treatment should be under strict surveillance. The development of sufficient internal resources should be facilitated or connections with external services for the mental health protection at the community level should be improved in order to ensure the access to professional staff when that is necessary for further evaluation and treatment.

There should be a central log for a safe cell where monitoring results and any other actions would be recorded. The information should include date and time, inmate's mood, all comments of the inmate, body language, physical appearance and all other relevant information. Each staff member who contacts the inmate should fill out this log. It is important that at its multidisciplinary meetings team has the access to such log. Debriefing strategy is of particular importance in the event of suicide because it contributes to resolving this issue and raises awareness in all officers of the risk of suicide committed by inmates and of the importance of a reliable risk assessment system.

Suicide prevention requires multidisciplinary approach to enable professionals in prisons to jointly work on the identification of vulnerable individuals in prison, to exchange information, and provide an integrated, professional suicidal behavior management service.

Appropriate treatment and support should be enabled through establishing adequate diversity, treatment and support options, including mental protection, psychosocial interventions, occupational therapies, mutual support, regular reassessment, continual monitoring, etc.

Treatment and support should be improved through establishing adequate diversity in resocialization activities by using individual approach, and should be designed and implemented to target and include the entire prison population, specific groups known to be at risk of suicide, and individual prisoners and offenders at the risk of suicide.

The existing connections should be expanded and the new connection should be established with the community services for continued suicide prevention after the release from prison.

The training program for suicide prevention should be developed to help form a workforce able to identify and evaluate those at risk of suicide and become capable of compassionately caring for them.

Development of prevention training program (including repeated trainings) for correctional staff and healthcare staff to help them recognize suicidal inmates and find appropriate actions for inmates in a suicidal crisis

Status of NPM staff in Ombudsman Institution of Kosovo

The Republic of Kosovo is not a signatory to the UN Convention against Torture and Other

Cruel, Inhuman and Degrading Punishment because it is still not a member of the United Nations.

However, Article 22 of the Constitution of the Republic of Kosovo stipulates that Human rights and fundamental freedoms guaranteed by the international agreements and instruments are guaranteed by this Constitution, are directly applicable in the Republic of Kosovo and, in the case of conflict, have priority over provisions of laws and other acts of public institutions. One of the conventions set forth in that Article is the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. On 28 May 2015 the Assembly of the Republic of Kosovo adopted the Law no. 05/L-019 on Ombudsperson. Article 17 of the Law on Ombudsperson stipulates that the Ombudsman shall act as the National Mechanism for the Prevention of Torture and Other Cruel, Inhuman and Degrading Punishment. On 16 January 2016, Ombudsman signed the decision on the formation of the National Mechanism for the Prevention of Torture (NMPT).

The NMPT protects the rights of persons deprived of liberty who are imposed any measure of remand, detention, imprisonment or accommodation to a place which is under the supervision of state authorities and which they may not leave at their own free will.

The Law defines the obligations of this mechanism which are: regular and unannounced visits to all places where persons deprived of liberty are accommodated, including police remand, detention, stay in healthcare institutions, customs remand, prevention of staying in the immigration centers and any other places suspected of being subject to the breach of human rights and freedoms.

According to this Law, a special mechanism is created to perform all functions of NMPT. The staff of this mechanism, in addition to lawyers, should include the experts in the various fields, particularly physicians, psychologists and social workers experienced in this area. Acting as the NMPT, the Ombudsman and his representatives have the right to access the health information of persons deprived of liberty, upon the consent of such persons, including the access to medical records and personal information.

The Ombudsman may give recommendations for the compliance of laws and other by-laws and administrative acts, guidelines and practices applicable in Kosovo with the Constitution of the Republic of Kosovo and international standards in the area of the prevention of torture and other cruel, inhuman and degrading punishment. The Ombudsman must cooperate with international and national mechanisms for the prevention of torture and other cruel, inhuman and degrading punishment.

The Ombudsman may give suggestions and recommendations for the improvement of treatment and conditions, to the persons and institutions responsible for detention of persons deprived of liberty, regardless of the type or facility and circumstances of their detention. In the future, the Ombudsman in the role of the NMPT will be obliged to provide reports like the other countries that founded NMPT under the OPCAT.

13. Judge, representative of the NPM of Turkey, Mr. Abdulmuttalip Zararsiz



As a consequence of ongoing human rights institutionalization process in Turkey, National Human Rights Institution was established by the Law. No 6332 in 2012 in the light of Paris Principles. That national human rights institution also designated as the National Preventive Mechanism under OPCAT through a Cabinet decision in 2014. The assignment of such a comprehensive and important task to National Human Rights Institution of Turkey required to strengthen the organizational capacity of the Institution. At that time establishment an equality body has remained on the agenda so as to effective fight against discrimination. In this regard, Human Rights and Equality Institution of Turkey was founded by the new law no.6701 in order to create more powerful institution and protect and promote human rights in the country. In this context, 3 functions have been given to the Institution by the new Law

These are:

- 1) National Human Rights Institution
- 2) National Preventive Mechanism and
- 3) Equality body

I would like to emphasize that The Human Rights and Equality Institution of Turkey with public legal entity status and administrative and financial autonomy has been established as an independent institution in accordance with the Paris Principles.

OPCAT AND THE NPM

OPCAT was signed in 2005 and ratified in 2011 by Turkey. As I mentioned before the NPM duty had been given to National Human Rights Institution by a Cabinet Decision. But now, the new law has clearly referred to OPCAT and designated the Institution as an NPM. Thus, the NPM duty has not only gained legal basis, but also empowered.

In the scope of NPM, power and duties of the Institution are:

- Fighting against torture and mistreatment and taking actions for this purpose
- Undertaking regular visits, with or without prior notice, to places where those deprived of their liberties or those under protection
- Reporting visits, making recommendations and delivering the reports related to such visits to relevant institutions and organizations. The reports also would disclose to the public when considered necessary by the Board.
- Inquiring into, examining, taking a final decision on and monitoring the results of applications filed by persons deprived of their liberty.

Applications

- The Institution has the duty of inquiring into, examining, taking a final decision on and monitoring the results of applications filed by persons deprived of their liberty or those under protection. There have been no fee charged for applications.
- When an application is filed, firstly, it is sent to the interlocutor of the alleged violation to submit an opinion in writing. The opinion in writing must be communicated to the Institution within fifteen days. Then, the opinion of the interlocutor of the alleged violation has been communicated to the applicant to answer within at latest fifteen days. After applicant communicate his or her opinions, an examination report is prepared by experts and assistant experts and the report is presented to the Board. The Board decides whether a violation has been committed or not. However, it should be note that the decisions of the Institution are not binding.
- The applications shall conclude within at latest three months under the law. Such period may be extended by the Head by at most three months for once.
- Besides applications, the Board also has been authorized to inquire into, examine, take a final decision on and monitor the results of violations of human rights - ex officio.

Visits

- In the scope of NPM duty the Institution have visited with or without prior notice, places those deprived of their liberty or those under protection. In this context it is possible that we prefer generally making visits with prior, especially when such a visit is conducted for the first time to the related institution. However, like visit to Elazığ prisons, some of our visits were made without prior.
- NPM unit has determined an annual visit program. We have tried to balance among detention centers such as prisons, custodial prisons, removal centers, children's homes, nursing homes, refugee camps, psychiatric hospitals. Each month at least one detention center has been visited, assessed and reported.
- NPM has been authority to access and receive all kind of information and documents both during the visit and after visit. All public institutions have been obligated to meet our request within at latest one month. Otherwise, public institutions would be subject to an administrative fine from 500 Turkish lira to 2.000 Turkish lira. In addition, public institutions and agencies and officers have the responsibility to assist and facilitate the visits undertaken under OPCAT.

In this context; former NHRI visits between 2014 and 2016:

- İstanbul Kumkapı Removal Center
- Ankara, Sincan Closed Penitentiary Institution
- Erzurum- Aşkale Removal Center
- Eskişehir H Type Penitentiary Institution
- Samsun Psychiatric Hospital

In the scope of NPM duty the visits had been conducted by Human Rights and Equality Institution from November 2017 to May 2018:

- Rize custody suits
- Rize L Type Closed Penitentiary Institution
- Trabzon E Type Closed Penitentiary Institution
- Trabzon Araklı Penitentiary Institution

- Trabzon Ataköy Psychiatric Hospital
- Antalya Gazipaşa custody suits
- Ankara Fatma Üçer nursing and rehabilitation center for old persons
- Ankara Abdurrahman Yurtaslan oncology training and research hospital
Psychiatric wards
- Kilis Öncüpinar Refugee Camp
- Hatay Boynuyoğun Refugee Camp
- Ankara 75. Yıl nursing and rehabilitation center for old persons
- Elazığ 1 and 2 numbered high security prison
- Elazığ T Type Penitentiary Institution
- Konya custody suits
- Konya training and research hospital Psychiatric Institute
- Ankara Sincan Open Prison
- Ankara Pursaklar Saray Children's home
- İzmir Removal Center
- İzmir children and youth closed Penitentiary Institution

Reports which include recommendations have been prepared for all visits and submitted to the approval of the Board. Then, the reports have communicated to related institutions.

STRENGTHS OF THE INSTITUTIONS

- It's designated as the NPM by a law on a legal basis.
- It has the administrative and financial autonomy
- It is also NHRI and Equality Body. These functions are going to strengthen the NPM function of the Institution
- The Institution has also power to hold applications filed by persons deprived of their liberty or placed under protection.
- It has the past experiences thanks to former HRIT.
- The Institution has no funding problems.
- Government's positive approach to the Institution and its function is another powerful aspect of the Institution.
- Lastly the Institution act in Corporation with CPT and SPT.

CHALLENGES

It is possible that divided the challenges we have faced into 2 groups; applications and visits.

- Applications shall concluded within at latest 3 plus 3 months. Although the response time of public institutions is limited to one month, in some cases these processes can exceed 30 days.
- When the information of the criminal investigation is needed, because of the principle of the confidentiality of the investigation, the prosecutors must remove the confidentiality decision with the request of the parties in the file. This procedure cause delay to fulfillment of our requests and also cause conflict with the authority of examination given to the Institution under the law.
- In respect of visits it is appropriate to say that detention centers and their officers generally helpful to delegation during the visit. However, the information and documents

requested delay in some cases. For instance, if a psychiatric ward is visited, all documents would be sent by the Hospital administration and it could be take a long time.

SUICIDE IN DETENTION CENTRES

Mechanisms Preventing Suicide in Prisons

- At least one psychologist, but generally three psychologists, work in prisons to evaluate mental health condition of prisoners and if it is necessary, psychologists give counseling to detainees.
- All prisons have own medical doctors and healthcare services in prisons include mental health services. The doctors refer prisoners to psychiatrists in general hospitals, if the prisoners demand or the doctors decide it is necessary.
- Ministry of Justice designed a team which consist of a psychologist, a social worker and a medical doctor to evaluate risk groups and take measures to prevent suicides. All prisons are obligated to design such a team.

The Purposes of NPM to prevent Suicides

- As NPM, we attach importance to prevent suicides in detention centers. Therefore, we receive information about the mortality rates and reasons of detainees and if any suicide or suicide attempts have occurred we get details about the occurrent.
- The staff's behaviors and attitudes towards detainees have critical role because they can prevent or lead suicides and suicide attempts. Thus, training of the staff and raise awareness about the issue is very important for us. In this context, training of detention centers' managers has planned by the NPM and approximately 1000 managers will be trained about the absolute ban of torture and ill treatment and also about other human rights of detainees. Therefore, by these trainings, we aimed not only prevent ill treatment and torture in detention centers but also prevent suicides and suicide attempts which have been originated from attitudes of the staff.
- Another important point is the living condition in detention centers. We believe that better living conditions contribute to prevent suicides. So, as NPM we recommend improve living conditions in detention centers in order to provide respect to human dignity and comply with the international standards.

CONCLUSION

- We believe that all detainees right to recognize their human dignity and each measure should take into account right-based approach. To this end, we would like to state that we are open to cooperation with the civil society and the authorities affiliated detention centers, and also with international organizations. I would like to thank you again for your invitation to this distinguished meeting and for your keen interest.

ANNEX I AGENDA

1. Day – 29. May 2018.

09:00 – 09:30	Registration of Participants
09:30 – 10:00	<p>Introduction speeches</p> <p>Zdenka Perović, Deputy Protector of Human Rights and Freedoms of Montenegro, moderator Šučko Baković, Protector of Human Rights and Freedoms of Montenegro, President of NPM Network Zoran Pašalić, Protector of Citizens of the Republic of Serbia, President of medical group Dr. Peter Kastner, Member of Austrian Ombudsman Board, Deputy President of legal group Prof. dr Ljubinko Mitrović, Ombudsmen Bosnia and Hercegovina, observer Dilek Ertürk, Member of the Human Rights and Equality Board, Turkey, guest</p>
10:00 – 10.10	Short break
10:10 – 11:30	<p>Presentations</p> <p>Moderator: Zdenka Perović, Deputy Protector of Human Rights and Freedoms of Montenegro</p> <p>Ermonela Xhafa, Commissioner of NPM Albania Dr. Peter Kastner, Member of Austrian Ombudsman Board Maja Kević, Deputy Ombudsman, Croatia Prof. dr George Nikolopoulos, Deputy Greek Ombudsman Aleksandar Trenkoski, advisor in NPM, FYR Macedonia</p>
11:30 – 12:00	Coffee break
12:00 – 14:00	<p>Presentations</p> <p>Moderator: Dr. Peter Kastner, Member of Austrian Ombudsman Board</p> <p>Katalin Haraszi, Deputy head of OCAT NPM Department, Hungary Mihaela Sîrbu, representative of NPM, Romania Miloš Janković, Deputy Protector of citizens of the Republic of Serbia Ivan Šelih, Deputy Ombudsmen, Slovenia Dejana Kozomara, advisor in Institution of Ombudsmen Bosnia and Hercegovina, observer</p>

	Hasime Terziqi , representative of Ombudsman Kosovo ⁷³ , observer Abdulmuttalip Zararsiz , judge, NPM Unit Turkey, guest Mirjana Radović , advisor of Protector of Human Rights and Freedoms of Montenegro
14:00 – 15:00	Lunch
15:00 – 17:00	Discussion Moderator: Maja Kević , Deputy Ombudsman, Croatia

Dan 2.

09:00 – 11:30	Status of NPM and staff in member states – discussion Moderator: Miloš Janković , Deputy Protector of citizens of the Republic of Serbia Ermonela Xhafa , Commissioner of NPM Albania Dr. Peter Kastner , Member of Austrian Ombudsman Board Maja Kević , Deputy Ombudsman, Croatia Prof. dr George Nikolopoulos , Deputy Greek Ombudsman Aleksandar Trenkoski , advisor in NPM, FYR Macedonia Katalin Haraszti , Deputy head of OCAT NPM Department, Hungary Mihaela Sîrbu , representative of NPM, Romania Miloš Janković , Deputy Protector of citizens of the Republic of Serbia Ivan Šelih , Deputy Ombudsmen, Slovenia Dejana Kozomara , advisor in Institution of Ombudsmen Bosnia and Hercegovina, observer Hasime Terziqi , representative of Ombudsman Kosovo ⁷⁴ , observer Zdenka Perović , Deputy Protector of Human Rights and Freedoms of Montenegro
11:30 – 11:45	Coffee break
11:45 – 13:00	Information on the work and future plans of the NPM Network
13:00 – 14:00	Lunch
14:00 – 15:00	Adoption of conclusions

⁷³ This designation is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo Declaration of Independence.

⁷⁴ This designation is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo Declaration of Independence.

ANNEX II

Conclusions

Due to the jurisdiction of the ECtHR Article 2 of the Convention of Human Rights obliges the authorities to take appropriate steps to safeguard the lives of those within its jurisdiction. However, such an obligation has to be interpreted in a way which does not impose an impossible or unreasonable burden on the authorities.

To fulfil its task, the NPM has to get informed timely by the relevant state authorities about all suicides and attempted suicides as well as serious self-harms that occurred in places of detention.

All relevant authorities should set up concepts and strategies to prevent suicides. These strategies should comprise screening for every new inmate, specific staff training, and other appropriate measures for preventing suicides and overdose deaths in detention facilities.

NPM will monitor how authorities implement this Strategy in practice and then recommend additional steps.

