



The Institution of Human Rights Ombudsman of Bosnia and Herzegovina

Report of the Ombudsman for Human Rights of Bosnia and Herzegovina on the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

A) Introduction

The Institution of Ombudsman for Human Rights of Bosnia and Herzegovina was established in 1996, in accordance with Annexes IV and VI of the General Framework Agreement for Peace in Bosnia and Herzegovina, as an independent institution for the promotion and protection of human rights. According to Article 1 of the Law on Ombudsman for Human Rights of Bosnia and Herzegovina¹, the institution of the Ombudsman is an independent institution, established with the aim of promoting good governance and the rule of law and freedom of natural and legal persons, as guaranteed by the Constitution of Bosnia and Herzegovina and international agreements in the addition of the Constitution. The Ombudsman Institution monitors the activities of the institutions of Bosnia and Herzegovina, its entities and the Brčko District of Bosnia and Herzegovina. The institution shall act within the framework of the Constitution, laws, other regulations and general acts, as well as ratified international treaties and generally accepted rules and standards of international law. The Human Rights Ombudsman Institution of Bosnia and Herzegovina considers cases related to poor functioning or violation of human rights committed by any authority of Bosnia and Herzegovina, its Entities and Brčko District. The institution of Ombudsman for Human Rights of Bosnia and Herzegovina may be addressed by any natural and legal person who has a legitimate interest, regardless of nationality, race, sex, religion or nationality.

The Ombudsman Institution is accredited in status "A", following the decision of the International Coordinating Committee (ICC) since March 2016, now the Global Alliance of National Human Rights Institutions (GANHRI).

In the organization of the work of the Ombudsman operates the Department for the Protection of the Rights of Detained/Imprisoned Persons², which, actually, is not in the function of the National

¹ The Law on Ombudsman for Human Rights of Bosnia and Herzegovina, Official Gazette BiH, No. 19/02, 35/04 and 32/06

² The Department for the Protection of the Rights of Detained/Imprisoned Persons considers complaints and appeals of detainees and prisoners, as well as ex officio initiates investigations in cases when it detects violations and problems in exercising the rights arising from the European Prison Rules, the United Nations Minimum Rules for the Treatment of Convicted Persons, the European Convention on the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and the European Convention on Human Rights and Freedoms. It also initiates the amendment of laws and by-laws in view of the complex criminal justice system in Bosnia and Herzegovina, in which there are four law on the enforcement of criminal sanctions, which ultimately results in the existence of different legal norms governing the same area (or question) way, which again leads to unequal application of the same. The result of this situation is the unequal treatment of convicted persons, and depending on which part of Bosnia and Herzegovina they are sentenced to imprisonment or another sentence, ie in which institution and in which entity they serve the sentence of imprisonment.

Similarly, in its work, the Department points to existing regulations that regulate the status and status, that is, the rights and obligations of detained / imprisoned persons, as well as the manner in which employees in the competent services in the correctional institutions act, and advocates consistent

Preventive Mechanism for the Prevention of Torture (NPM), but through visits to persons deprived of liberty examines how they are treated with the aim of increasing the protection of these persons against torture.

B) Positive aspects

- In relation to the previous periodical report and in order to harmonize legislation with international standards, the Parliamentary Assembly of Bosnia and Herzegovina (hereinafter: BiH) in May 2015 adopted the Law on Amendments to the Criminal Code of Bosnia and Herzegovina ("Official Gazette of BiH" , No. 40/15). This law amended Article 190 in the manner that the definition of the criminal offense of torture has been harmonized with the definition of the offense referred to in Article I. of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- In Republika Srpska, in July 2017, the National Assembly of Republika Srpska passed the new Criminal Code ("Official Gazette of Republika Srpska" No. 64/2017). Article 7 of this Law prescribes the principle of respect for the human dignity and personality of the perpetrator.
- By-laws or rules on home order in institutions for the execution of detention measures contain provisions that regulate the treatment of persons who are in custody, including the question of admission and distribution of detainees, health and hygiene measures and nutrition, work and behavior of detainees, maintenance order and discipline, visits, correspondence, receipt of consignments and press, procedure in case of escape or death of detainees, implementation and dismissal, questions of the rights of detained persons and issue of supervision over the execution of the detention measure, as well as other issues related to the conditions and manner of execution detention facilities in penitentiary institutions.
- At the end of November 2016, the Institute for Forensic Psychiatry in Sokolac was put into operation, which is of great importance for the system of execution of criminal sanctions in Bosnia and Herzegovina. Namely, those who need professional medical help for years have found themselves in inadequate accommodation in correctional institutions and other institutions. At the beginning of the work of these Institutions, the obligations from the decision of the Court of Human Rights in Strasbourg were fulfilled regarding the provision

implementation thereof; Analyzes and points out the key causes of the failure of the authorities to deal with issues related to detained / imprisoned persons; removes obstacles to the consistent application of international conventions ratified by Bosnia and Herzegovina; offers instruments of cooperation with the administration and staff of penitentiary institutions in combating individual cases of violation of the rights of detained/imprisoned persons; inform and direct in appropriate manner the detained/imprisoned persons about their rights; allows detainees/prisoners, possibly to staff as well as persons visiting the convicted persons to present their problems and complaints individually and in privacy; performs direct observation of the premises where persons deprived of their liberty stay, inspects relevant documentation, performs monitoring of the work of the administration and prison staff when processing cases of violation of the rules of the house rules made by detainees/prisoners, with the aim of obtaining requests for human treatment, the absence of any kind discrimination, preservation of the physical and mental integrity of the listed categories of persons, while taking into account the need to maintain order, discipline, safety, treatment, re-socialization and re-education in the institution as well as future social reintegration of such persons into civil society.

At present, 2 (two) employees work in this Department, although the Rulebook on internal organization and systematization adopted by the Ombudsman of Bosnia and Herzegovina foresees the recruitment of three lawyers, however, due to limited material resources, one job has not yet been filled. The material and budget funds for the work of the Department are envisaged within the budget for the functioning of the Ombudsman Institution for Human Rights of Bosnia and Herzegovina.

of adequate treatment of persons who committed crimes in a state of significantly reduced accountability, that is, inaccuracies.

- Bosnia and Herzegovina has not yet ensured compliance with the European Prison Rule 17.1. which regulates the issue of referral and accommodation in such a way that *"prisoners will be sent to prisons as close as possible to their homes or places of social rehabilitation"*, and therefore the issue of transferring is not adequately regulated. This was the reason that the Ombudsperson sent to the Parliament of the Federation of Bosnia and Herzegovina, the Federal Ministry of Justice and the Ministry of Justice of Republika Srpska, the Initiative for Amendments to the Law on the Execution of Criminal Sanctions of the Federation of Bosnia³ and Herzegovina and the Law on the Execution of Criminal Sanctions of the the Republic Srpska⁴. The aim of this initiative was to enable the transfer of prisoners from institutions for the execution of criminal sanctions of one entity in another. At the session held in May 2016, the National Assembly of Republika Srpska adopted the Law on Amendments to the Law on the Execution of Criminal Sanctions of the Republic Srpska⁵ defining: *"When required for reasons of security or because of the organization of the execution of imprisonment, the Head of the Office may file a motion for the transfer of the convicted person persons in the other Institution, as decided by the Minister"*⁶, while the Federation of Bosnia and Herzegovina has not yet amended the Law on the Execution of Criminal Sanctions. The question is whether solely the reasons for security or the organization of the execution of imprisonment may be the basis for the transfer, exclusively on the proposal of the head of the institution and what is with the interests of the prisoner.
- In 2012, the Ombudsmen prepared and submitted to the competent authorities the Special Report on the state of human rights in institutions for the enforcement of criminal sanctions in Bosnia and Herzegovina. This report contains specific recommendations addressed to the competent authorities.

C) Observations and concerns of the Ombudsmen

- The biggest concern of the Ombudsmen is that the Preventive Mechanism has not yet been established in Bosnia and Herzegovina. By ratification of the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 2008, the authorities of Bosnia and Herzegovina have assumed responsibility for the establishment of a preventive mechanism to prevent torture. The Ombudsmen note that regardless of the importance of establishing a preventive mechanism and the fact that the authorities in Bosnia and Herzegovina have taken certain measures and activities in the past six years to form it, it has not been established to date. Namely, until the date of writing of this brief, the Law on Human Rights Ombudsman of Bosnia and Herzegovina has not been amended, which would foresee the establishment of a preventive mechanism within the institution of the Ombudsman, and consequently no additional human, material and

³ Official Gazette Federation of Bosnia and Herzegovina, No. 44/98, 42/99, 12/09 i 42/11.

⁴ Official Gazette Republike Srpske, No. 12/10, 117/11 i 98/13.

⁵ Official Gazette Republike Srpske, No. 44/16.

⁶ Article 122. paragraph 1. Law on Enforcement of Criminal Sanctions of Republika Srpska

budgetary resources were allocated to the Ombudsman Institution for the mandate of preventive mechanism. On September 5, 2017, the Council of Ministers of BiH established a draft law on amendments to the Law on Human Rights Ombudsman of Bosnia and Herzegovina and submitted it to the Parliamentary Assembly of BiH for adoption. The proposal provides for the establishment of the Preventive Mechanism.

- The system of executing the imposed criminal sanctions in Bosnia and Herzegovina is complex, because the existing legislation regulating this area, in accordance with the constitutional structure of Bosnia and Herzegovina, is deployed on three levels of government. Namely, the jurisdiction regarding the execution of criminal sanctions is divided between the Ministry of Justice of Bosnia and Herzegovina, the Ministry of Justice of the Federation of Bosnia and Herzegovina, the Ministry of Justice of Republika Srpska and the Judicial Commission of the Brčko District of Bosnia and Herzegovina. It is this system in which there are four laws on the enforcement of criminal sanctions⁷ ultimately resulting in the existence of different legal norms that govern the same area (or issue) in a different way, which again leads to unequal application of legislation. This situation inevitably leads to unequal treatment of convicted persons, and depending on in which part of Bosnia and Herzegovina they are sentenced to imprisonment or another sentence, i.e. in which institution and in which entity they serve the sentence of imprisonment. The Ombudsmen also note that unequal treatment of prisoners/detainees contributes to the fact that convicted persons serving a sentence of deprivation of liberty are exposed to different rules contained in the regulations and other by-laws that are applied, depending on which court has imposed the prison sentence, for example, whether the courts of the entity or the Court of Bosnia and Herzegovina are concerned.
- The use of extra-judicial benefits is one of the reasons why convicts turn to Ombudsmen. The largest number of complaints relate to a solution in practice according to which the use of extra-judicial benefits is conditioned by the opinion of the competent police station and social protection authorities, so convicted persons in complaints to the Institution state that the police officers performing these checks do not determine the proper situation on the ground because they are not sufficiently objective but they write a negative opinion in automation. On the other hand, the results of police checks depend to a large extent on whether the management will granted benefits. This raises the question of the effectiveness of the process of re-socialization, if a quality mechanism of communication with the outside world is not established, in which the convicted person returns after a criminal sanction has been executed.
- In the part of the communication of prisoners with the outside world, the Ombudsmen also note that their recommendation was not followed in the Annual Reports for 2013, 2014, 2015 and 2016, which refers to the secrecy of the written consignments sent by the sentenced persons from the penitentiary institutions Republika Srpska, for further treatment to the Ombudsman Institution. Delivery of written consignments in open envelopes and with accompanying letter of the institution containing already determined data of the convict

⁷Law on the Execution of Criminal Sanctions, Detention and Other Measures "Official Gazette of BiH" No. 22/16, Law on Enforcement of Criminal Sanctions in the Federation of Bosnia and Herzegovina, Official Gazette FBiH "no. 44/98, 42/99, 12/09 and 42/11, Law on Enforcement of Criminal Sanctions in the Republika Srpska, "Official Gazette of RS" no. 2/10, 98/13 and 44/16 and the Law on the Execution of Criminal Sanctions, Detention and Other Measures in the Brčko District of Bosnia and Herzegovina, "Official Gazette of Brčko District" No. 31/11

(personal and in terms of the work he has done) is an obvious example of persisting ignoring the Ombudsman's recommendations and violating the rights of convicted persons.

- The Ombudspersons point out that the long-standing problem of lack of accommodation capacities was only for institutions for the enforcement of criminal sanctions in the Federation of Bosnia and Herzegovina, while the existing capacities in Republika Srpska are sufficient to accommodate all convicted persons. Due to the presence and overcrowding of institutions in the Federation of Bosnia and Herzegovina, a number of convicted persons were waiting to be sent to serve their prison sentence. The Ombudsmen point out that although there is still a problem of overcrowding in institutions, it is not so much expressed in previous years as it is evident that the authorities in the Federation of Bosnia and Herzegovina tried to partly mitigate it by building new ones and by adapting existing institutions, and also the courts of this entity to execute alternative sentences⁸ rather than imprisonment.

Example; The Ombudsmen state that in their Special Report on the state of human rights in institutions for the enforcement of criminal sanctions in Bosnia and Herzegovina⁹, as well as in the Recommendation¹⁰, they warned about the extremely poor conditions in which detainees/prisoners are staying in the Correctional Facility Sarajevo. In their Special Report on the state of human rights in institutions for the enforcement of criminal sanctions, the Ombudsmen also pointed out that the worst situation in the entire system of execution of criminal sanctions¹¹ is in the Penitentiary Institution Sarajevo, and that the competent ministry did not follow the real needs, given the density the population in the area that gravitates to this institution. Unfortunately, the Ombudsmen note that this situation has not yet changed, as demonstrated by the visit of the Ombudsman, which was carried out at the beginning of last year, at the request of the Assistant Director of the Correctional Facility Sarajevo, who sent a notice to the Institution pointing to the overcrowding of accommodation facilities in this institution, the reaction of the authorities and the Ombudsman's assistance. It was found that on the day of the visit of the representative of the Institution, the situation in the Detention Unit was as follows: in total 135 people, of which 126 men, 6 women and 3 detainees who are in the health unit of the Institution. This data is alarming given that the capacity of this institution is 88 seats. After the visit, which included an interview with the Directorate of the institution, a visit to the premises of detention, inspection of official records, interviews with detained persons who could give information relevant to the subject of the visit, or who were caught during the tour (in rooms and in walks) is the Report on the Ombudsman's visit to the penitentiary-correctional facility of semi-open type Sarajevo¹² and sent recommendations to the Government of

⁸Ž-SA-07-407/15 - An example in the case where a measure of work for a public good at liberty for 50 working days was imposed on the complainant by the Municipal Court in Sarajevo.

⁹ Published in 2009.

¹⁰ Recommendation relating complaint Ž-SA-07-1381/11, No. P-209/11

¹¹ Published in August 2012.

¹² The following recommendations were made to the Government of the Federation of Bosnia and Herzegovina, the Federal Minister of Justice and the Director of the Penitentiary Institute Sarajevo, in the Report on the Ombudsman's Visit to the Correctional Facility of the semi-open type Sarajevo:

- take all necessary measures without delay to improve the quality of life of detainees, first and foremost, to ensure sufficient living space per detainee, ensuring lighting, heating, ventilating, access to drinking water, as well as maintaining these facilities in a satisfactory state and meeting the requirements of prison hygiene;
- to take measures to move the convicted part of the institution to the locations of Igman or Ustikolin;
- to indicate to the competent courts the need to refrain from issuing the necessary documents for the maintenance of the custody measure in the prison in Sarajevo until the creation of the aforementioned conditions, and to send detainees to other institutions;
- to resolve or alleviate, without further delay, the problem of insufficient number of employees working with persons deprived of their liberty;
- to immediately allow detained persons to stay in the fresh air for two hours;

the Federation of Bosnia and Herzegovina, the Federal Minister of Justice and the Director of the Penitentiary Institute Sarajevo. Unfortunately, the Ombudspersons note that the competent Ministry has not submitted a response to the issued recommendation and information whether it was recommended to be respected. The Ombudsmen conclude that resolving the issue of overcrowding in this institution is of particular importance because it also draws a number of other circumstances that make it difficult for the institution to function. Namely, there are many additional difficulties with which the institution meets, for example, in its work, organization and functioning, in terms of organization and proper management of the institution, issues of safety of convicted persons and employees, ensuring adequate hygienic conditions, health care, as well as the existence of a greater risk of threats, violence and rebellion.

- The Ombudsmen also dealt with the issue of violence among convicted persons. In this regard, in May 2016, they prepared a Report on Human Rights Violations of the convicted persons in the Penitentiary and Correctional Institution Zenica. Namely, there were cases of verbal and physical violence among convicted persons on a national basis, which resulted in the Ombudsmen issuing recommendations for undertaking measures to sanction all responsible persons employed in this institution, as well as for undertaking all measures and activities in order to review the effectiveness of the established mechanisms for prevention conflict between prisoners with a special emphasis on the causes of these conflicts. The Ombudsmen were informed that a disciplinary procedure was initiated to punish a responsible person who failed to inform the first man of the Institute about the incident at a time, as well as the improvement of existing procedures to ensure better security for convicted persons. In addition, it is particularly pointed out that inadequate facilities and the shortage of staff and equipment are "bottleneck" in these activities.
- Analyzing the structure of complaints submitted to the Ombudsmen, it is evident that the largest number refers to the issue of the health care of convicted persons, the quality of health care in penitentiary institutions and on its availability. Unfortunately, the Ombudsmen unfortunately find that in Bosnia and Herzegovina, all penitentiary institutions do not have an employed doctor. On the basis of the available information obtained from the reply of the Ministry of Justice of Republika Srpska, the permanently employed doctors have the following penitentiary institutions: KPZ Banja Luka, KPZ Foča and KPZ East Sarajevo and do not have a doctor: KPZ Doboј, KPZ Trebinje and KPZ Bijeljina. The Federation Ministry of Justice informed the Ombudsmen that only in KPZ Zenica and Tuzla penitentiaries there are permanently employed doctors, while KPZ Mostar, KPZ Orašje, KPZ Busovača and BPK Bihać do not have a doctor.
- The Ombudsmen note that there has been no significant improvement in coordination between health and justice ministries in providing health care in prisons. The Ombudsmen noted the lack of a consistent approach to managing communicable diseases, the adoption of a policy of combating drug use in prisons and uniform standards for the training of health workers, which all have a negative impact on the overall quality of prisoners' health care.

- to solve, in cooperation with the Federal Ministry of Health, the problem of scabies (shouguas) which were caused by a number of detainees in the institution;

- in cooperation with the Ministry of the Interior, the Police Directorate, solve the problem of police assistance during the execution of the institution of high-risk detainees on the basis of indicating medical assistance.

Women's rights at the time of imprisonment

With the awareness that women serving prison sentences are one of the more vulnerable groups significantly more exposed to possible human rights violations either in or out of prison, Ombudspersons give due attention to this issue in terms of ensuring a quick access to lawyers, doctors or contacts with family members.

In Bosnia and Herzegovina, women are sent to the execution of sentences of imprisonment in two institutions, namely KPZ East Sarajevo and KPZ Tuzla. The Ombudsmen note that the conditions for the enforcement of criminal sanctions against women have been significantly improved since the newly-constructed correctional facility for women was opened at the Eastern Sarajevo in 2012, while certain measures were taken in KPZ Tuzla by the recommendations of the Ombudsmen as well as other institutions, in order to improve the position of convicts, which are related to the provision of necessary hygienic necessities and to ensuring greater work engagement. The building in East Sarajevo was built in accordance with the standards that ensure the full possibility of enjoying the rights of convicts in accordance with the European Rules, where there is a special place for women with babies and young children. Unfortunately, in these institutions, there is still a practice that women are engaged in traditional women's jobs, such as sewing and handicrafts, or performing kitchen and hygiene support. In Tuzla, the convicts complained about the lack of understanding for their specific needs, which they have in their biological determination, and that they do not receive sufficient hygienic necessities, which is why the Ombudsmen recommended that efforts be made to resolve this problem.

Statistical data and structure of complaints received in the Department for Protection of the Rights of Detainees/Prisoners

In the reference period from the last report and on the basis of an insight into the electronic database of the Institution of the Ombudsmen, the following was established:

- in 2010, 92 appeals were received from convicted persons and 72 complaints on the work of the police, in 2011, 118 complaints of convicted persons and 117 on the work and conduct of the police,
- In 2012, the number of complaints lodged by convicted persons was 169 and 123 complaints on the work of the police,
- In 2013, 139 complaints received by convicted persons and 138 complaints were received in which the police were marked as a violation of human rights,
- In 2014, 160 complaints of convicted persons and 144 complaints to the police were received
- In 2015, 105 complaints of convicted persons and 135 complaints to the police were recorded
- in 2016 the number of 166 appeals lodged by the convicted persons and 138 complaints to the police.

The Ombudsmen estimate that a continuous increase in the number of complaints is caused, inter alia, by frequent visits to institutions in the prison system, and the increasing awareness of persons deprived of their liberty about the Ombudsmen's authority for the protection of human rights for

which the Ombudsman Institution has also printed the Guide, with the aim of the category of persons provides easier access to information related to the protection of their rights.

Legal mechanisms for controlling the treatment of police organs in Bosnia and Herzegovina

In Bosnia and Herzegovina, on issues related to independent and external mechanisms for controlling illegal actions by police officers and other law enforcement officers, in police post offices have been placed visibly marked boxes for written complaints by citizens on the work and procedures of police officers. In addition to the above-mentioned method, all citizens may also complain about the work and actions of police officers on an oral basis in police stations or directly in the professional standards unit of the entity ministries of the Interior by telephone, fax or mail.

All complaints submitted to the work of police officers are referred to civilian complaints offices in cantonal ministries of the interior, the Federation Ministry of the Interior, which gives consent to open investigations conducted by the Professional Standards Unit. After an investigation has been carried out with the appraisal of the merits of the complaint, the Professional Standards Unit submits the complaint to the Complaints Committee of the citizens, which gives an assessment and opinion on the conducted investigation. In Republika Srpska, this procedure is carried out by the Professional Standards Unit of the Ministry of Internal Affairs of Republika Srpska, which in 2016 changed its name into the Service for Integrity and Legality Protection.

The complainant is informed about the outcome of the complaint in writing. The work of the Professional Standards Unit (JPS) is more closely prescribed by the Instructions on the Work of the Professional Standards Unit and the Regulation on the Work of the Office (Committee) for complaints of citizens. In the event of a complaint, the JPS submits a motion to the Police Commissioner or the Disciplinary Prosecutor (depending on the degree of violation of official duty) for the initiation of a disciplinary procedure, and if there are grounds for suspecting that a police officer has committed a criminal offense, the report is also submitted to the Criminal Police Department .

In their annual reports, the Ombudsmen recommended to the Entity Ministries of the Interior, the Brčko District Police of Bosnia and Herzegovina and the cantonal ministries of interior *to "establish and improve the real independence of the internal control of the work of police officers, and question the existence of a genuine independence of the police officers, guided by citizens' complaints on the treatment of police officers, ensure systematic and continuous education of police officers on human rights "*.

During 2014, the Ombudsmen of Bosnia and Herzegovina made unannounced visits to the Police stations in Tuzla, Mostar and Zenica. The purpose of the visits was to determine the manner of treatment of persons deprived of their liberty during their detention and the conditions of their accommodation in police detention units. The visits gave an opportunity to inspect the number of rooms for detaining persons deprived of their liberty, the dimensions of the rooms, equipment with beds, bedding and other amenities, lighting in the rooms, secured heating, moisture presence, possibility of self-service, hygienic conditions, sanitary facilities, drinking water, the possibility of communicating the detainee with officials, equipment of video surveillance, and assessing whether

there are non-standard items in the premises that could be used for the abuse and torture of detainees.

The subject of the visit included an overview of the police records, the time of retention of persons, the exercise of the right to meal and the contents of the meal, the manner of making minutes of detention, the interview with the staff of the Personnel and Objects Security Unit and the Professional Standards Unit.

By means of a random sample method, the Ombudsmen inspected several cases that were created in connection with the detention of persons, so it was established that the records of the detained persons are established and conducted in accordance with the provisions of the Criminal Procedure Code of the Federation of Bosnia and Herzegovina¹³. Namely, for each person deprived of liberty, the Minutes on the deprivation of liberty were drawn up in which, inter alia, it is entered that the person to whom the liberty was deprived is acquainted within the meaning of Article 5 of the Code of Criminal Procedure of the Federation of Bosnia and Herzegovina, in his mother tongue or in a language that understands the reasons acquitted of not being obliged to give evidence, to have the right to a defense counsel who can choose himself/herself as well as to have the right to inform her family, consular officer or person designated by him/her about the deprivation of liberty; Record of the release of a person deprived of liberty, Record of surrender, Record of the search, Confirmation on the reception of the person who has been deprived of liberty, Report on the tours and the minutes on the release of a person from detention facilities. If there are visible injuries on the person's receipt, such a fact shall be entered in the record, provided with medical assistance or taken to a specialist examination, and the doctor's report is entered into the dossier. Each record provides for the possibility of giving remarks to persons deprived of liberty, and if remarks relate to the treatment of police officers, they are transmitted to the Professional Standards Unit. According to information obtained in interview with the Chief of the Internal Affairs Unit of the Professional Standards Unit, objections to the treatment of police officers are forwarded to the Citizens' Complaints Committee that approves the conduct of an internal investigation.

If the Professional Standards Unit determines the merits of the complaint or violation of official duty, it submits to the Disciplinary Commission an initiative to initiate a procedure for determining disciplinary liability. The Disciplinary Commission decides by a decision on which it is possible to appeal to the Police Committee. At that time, there were two suspensions of police officers suspended from work because of a violation of the code.

D) Recommendations

Having in mind all the concerns expressed about the application of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment, the Ombudsmen consider that in order to improve the rights of detained/imprisoned persons, it is necessary:

- As soon as possible, the Law on Amendments to the Law on Ombudsman for Human Rights of Bosnia and Herzegovina should be adopted, as adopted at the session of the Council of

¹³ Official Gazette of the Federation of BiH, No. 35/03, 37/03 i 56/03

Ministers held on September 5, 2017, in which the establishment of a preventive mechanism within the Ombudsman Institution is envisaged and to provide additional financial resources to the institution of the Ombudsman for performing the mandate of the preventive mechanism;

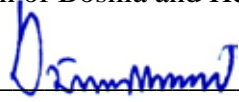
- Make additional efforts and amend the Law on the Execution of Criminal Sanctions of the Federation of Bosnia and Herzegovina in the part relating to the adoption of a provision that would define the issue of transferring convicts from the penitentiary institutions of the Federation of Bosnia and Herzegovina to the institutions of Republika Srpska;
- Take effective measures to ensure proper and impartial investigations into all alleged cases of torture and other cruel, inhuman or degrading treatment as well as adequate punishment of perpetrators;
- In order to achieve adequate health care, detainees/convicts should be provided by permanently employed medical practitioners in all correctional institutions (the number of doctors and medical personnel will be determined in accordance with the needs of the institutions);
- Regularly educate and train law enforcement personnel, including police and prison staff, to ensure that all officials are fully informed of the provisions of the Convention;
- Ensure that internal control mechanisms of the police and prisons work properly and that they are independent and effective;
- Ensure the secrecy of written consignments sent by detainees and convicted persons to the Ombudsmen of Bosnia and Herzegovina.
- Improve the working engagement of persons who are serving prison sentences.
- In the shortest possible time, the state prison located in Vojkovići, the Municipality of Istočna Ilidža, would contribute in part to solving the issue of overcrowding of institutions for the enforcement of criminal sanctions in the Federation of Bosnia and Herzegovina.

Date, 5 October 2017

No: Oi-K-SA-135/17

The Ombudsmen of Bosnia and Herzegovina:




Dr. Jasminka Džumhur


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