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CONTINUOUS TRAINING



Module 3



CAPACITY BUILDING OF THE LAW ENFORCEMENT AGENCIES FOR APPROPRIATE TREATMENT OF DETAINED AND SENTENCED PERSONS

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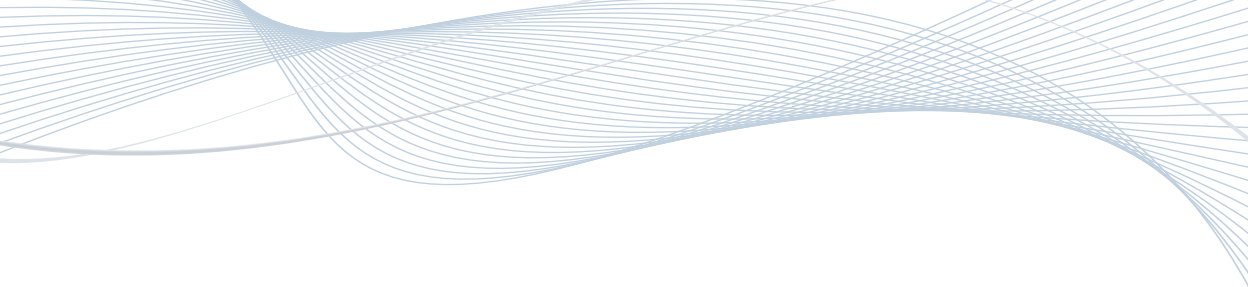
**Ministry of Internal Affairs
Police Training Centre**

CONTINUOUS TRAINING ON HUMAN RIGHTS IN POLICE PROCEEDINGS

Module 3: Detention and Prevention of Ill-Treatment

OCTOBER, 2014

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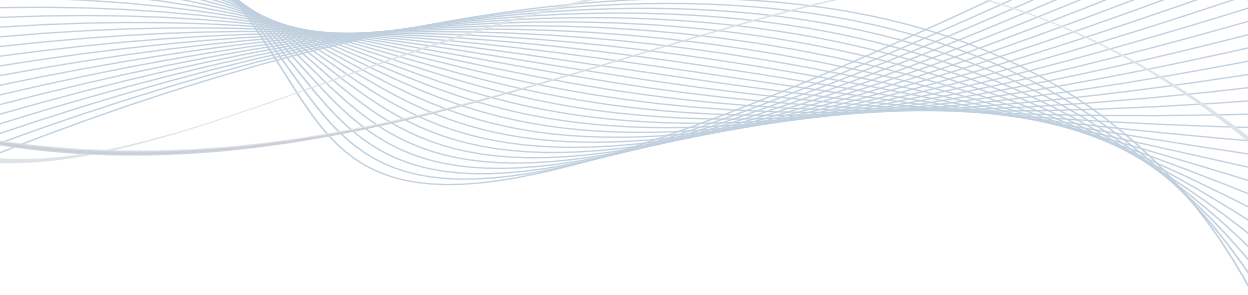


Representatives of the Ministry of Internal Affairs, as well as external experts, were nominated to work in the working group within the project on “Capacity Building of the Law Enforcement Agencies for Appropriate Treatment of Detained and Sentenced Persons”, implemented by the Council of Europe.

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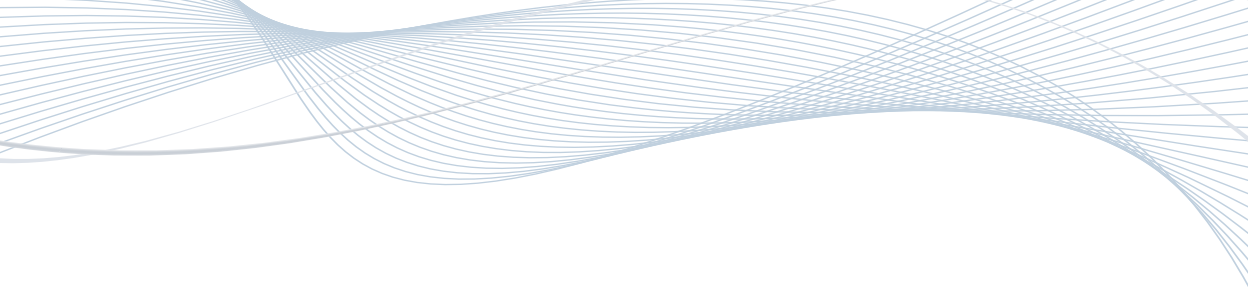
The task group was chaired by Aleksander Krebl - Council of Europe consultant.





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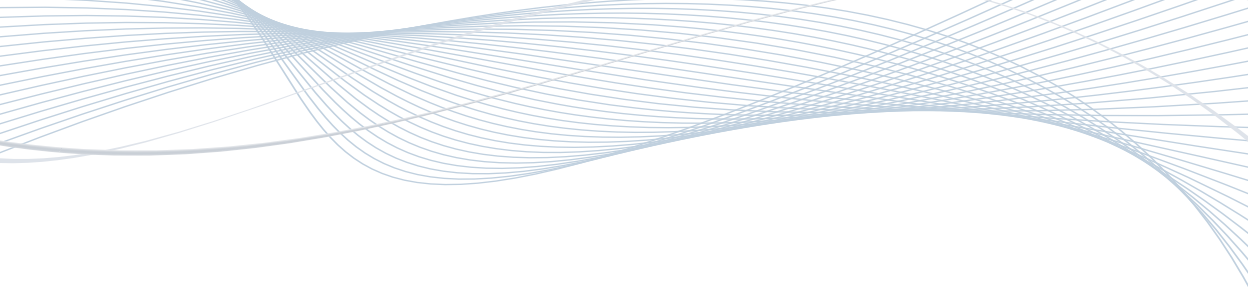
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LIST OF ABBREVIATIONS

ECHR	European Convention on Human Rights
LA	Learning assignment
CCP	Code of Criminal Procedure
CO	Criminal offence
S	Scene
MoIA	Ministry of Internal Affairs
MTR	Material and technical resources
UN	United Nations
PU	Police Unit
PS	Police Station
PO	Police Officer



MODULE 3: DETENTION AND PREVENTION OF ILL-TREATMENT

LEARNING ASSIGNMENT:

DETENTION AND PREVENTION OF ILL-TREATMENT – 9 CLASSES

THEMATIC UNITS OF THE LEARNING ASSIGNMENT (LA):

1: Legal grounds for detaining a person

2: Preparing official material

3: Ill-treatment of detained persons

- General objectives
 - Presenting the legal regulation for detention of persons
- Specific objectives
 - To be able to detain persons in accordance with the law
 - Control and supervision of the respect of the procedure upon detention
- Operational objectives

Information objectives

- To explain the meaning of the detention
- To explain the detention procedure

Formative objectives

- Legal proceedings upon detention
- To meet the requirements and expectations of detained persons
- To recognise ill-treatment upon detention

• Obligations of learners

Number of classes per participant: 10 (4 interactive learning and 6 exercises)

Number of classes of individual work per participant 4 (individual exercising, preparation of exercises)

LEARNING ASSIGNMENT: DETENTION AND PREVENTION OF ILL-TREATMENT

Introduction

The police are the most obvious demonstration of government authority responsible for public safety. They carry out the most obvious, direct, and assertive tasks in order to ensure the welfare of the individuals and the community. For that reason, the police have special authorisations (including the possibility to use force) in order to temporarily deprive people of their liberty, to limit the full exercise of their rights (e.g. stop them, interrogate them, detain and deprive them of liberty, confiscate their property, take their fingerprints, take photos of them and search them), and in extreme circumstances, they can also use deadly power. Moreover, on many occasions the police have the margin of appreciation to decide whether and when to use these authorisations.

However, implementing police authorisation is still a sensitive issue in cases when the police are called to intervene in affairs interfering with the human integrity. When using police authorisations that lead to apprehension, keeping in police custody and, primarily, limitation of liberty, human dignity is violated. Police officers are in a complicated position since they have to use police authorisations and force against citizens, but at the same time to protect and serve them.

At all time, police officers must always respect the rule of law in accordance with the best international standards and procedural rules and strategies stipulated in the applied national and local laws. When performing their tasks, the authorised officials must respect and protect the human dignity and preserve and protect the fundamental human rights, as well as civil and political rights.

For that reason, police officers should know how to treat detained persons in accordance with the law and how to prevent ill-treatment.

Summary

Human rights and freedoms are the most sensitive part of social living. Thus, the mission and final objective of any democratic and modern state is to respect and protect them. Accordingly, the state should be the highest guarantee that human rights will be ensured, respected, and protected, as a fundamental benefit of the civilisation in the daily life of its free citizens.

Taking into consideration that the police are the only state body with legal authorisation to act, limit, and take away the fundamental rights and freedoms of citizens, they very often find themselves in a complicated

situation since they have to use police authorisations and force against citizens, but at the same time to protect and serve them.

The legal framework that regulates the authorisations for apprehension, deprivation of liberty and detention is laid down with the European Convention on Human Rights, the Constitution, the Code of Criminal Procedure, the Law on Misdemeanours, the Law on Police, the Law on Juvenile Justice, the Rulebook on the Manner of Performing Police Affairs, and the Code of Police Ethics.

Police officers treat the detained persons following a sequence of Standard Rules.

Police stations where persons are detained maintain **a special file for detained persons**. The file of detained persons compiles all submissions filled in by police officers as regards the detained persons.

Our country is obliged to undertake any legal measures to prevent torture within its borders and not to exile or hand in a citizen of another country who might likely be exposed to torture.

Police proceeding concerning detained persons in the police can be evaluated by the National Preventive Mechanism within the Office of the Ombudsman and by the European Committee for the Prevention of Torture, set up in accordance with the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

However, even when acting to perform their working tasks of that type, authorised officials are professionally obliged to be careful and work on the basis of law regulating such a police procedure, especially when apprehending, depriving of liberty or detaining a person.

The professional approach and conduct of the police officers, based on the provisions of the Code of Police Ethics, is the best protection and guarantee against misuse of the fundamental rights and freedoms in a police procedure.

Main points:

- Legal grounds for detaining a person
- Informing the detained person of his/her rights
- Medical help to an injured person, physiological needs
- Legally stipulated deadline for detaining a person
- Preparing official material
- Ill-treatment of detained persons

Thematic unit for LA:

- **Thematic unit 1:** Legal grounds for detaining a person
- **Thematic unit 2:** Preparing official material
- **Thematic unit 3:** Ill-treatment of detained persons

Core activity:	Detention and Prevention of Ill-Treatment		
Learning assignment:	Detention and Prevention of Ill-Treatment		
Date:	19.09.2014	Implementing the learning assignment - location:	Organisational units in MoIA
Version:	4	Item:	3.1
	Competences		

<input checked="" type="checkbox"/>	1. acts in accordance with the defined role and duties of the police
<input checked="" type="checkbox"/>	2. carries out the authorisations
<input checked="" type="checkbox"/>	3. uses means of coercion
<input type="checkbox"/>	4. performs various types of controls, checks and court orders
<input type="checkbox"/>	5. provides assistance
<input type="checkbox"/>	6. uses MTR
<input type="checkbox"/>	7. drives vehicle safely with priority of passage
<input checked="" type="checkbox"/>	8. drafts and writes any type of report
<input checked="" type="checkbox"/>	9. takes initiative in work
<input checked="" type="checkbox"/>	10. prioritises
<input checked="" type="checkbox"/>	11. accepts a task from a competent person
<input type="checkbox"/>	12. carries out the planned activity
<input checked="" type="checkbox"/>	13. communicates, coordinates and analyses
<input checked="" type="checkbox"/>	14. works in the spirit of democratic processes
<input checked="" type="checkbox"/>	15. enforces the law and respects the rule of law
<input checked="" type="checkbox"/>	16. uses communication skills
<input checked="" type="checkbox"/>	17. establishes and builds a close relation with citizens
<input type="checkbox"/>	18. recognises and resolves their problems
<input checked="" type="checkbox"/>	19. knows the social and ethnic structure
<input checked="" type="checkbox"/>	20. respects diversities
<input checked="" type="checkbox"/>	21. provides assistance to anyone
<input checked="" type="checkbox"/>	22. respects cultural and other values
<input type="checkbox"/>	23. communicates in English
<input checked="" type="checkbox"/>	24. constantly improves himself
<input checked="" type="checkbox"/>	25. listens and asks questions
<input checked="" type="checkbox"/>	26. knows how he can learn
<input checked="" type="checkbox"/>	27. accepts well-intentioned criticism and suggestions
<input checked="" type="checkbox"/>	28. notes what is negative and eliminates it

	Working pattern	
x	a. introduction into events	
x	b. planning of general and specific assignments	
x	c. monitoring, preventive, and operational work	
x	d. communication with citizens	
	e. information, use of material and technical resources, radio communication and other	
x	f. provision of assistance - service to citizens	
x	g. performance of work assignments	
x	h. respect of human rights	
x	i. use of authorisation	
x	j. submission of reports	

		Date: 19 Sept. 2014
Learning assignment: version for learners		Item: 3.1
Core activity	Detention and Prevention of Ill-Treatment	Version: 4
Learning assignment	Detention and Prevention of Ill-Treatment	Location: Organisational units in MoIA
		Time needed: 9 classes
Description	<p>Protecting the personal safety and other rights of every citizen guaranteed with the Constitution is one of the most important tasks of every democratic country. Citizens in a modern society confer to the state the tasks concerning the protection of their personal safety and the general safety in the society, a task they used to assume on themselves in previous social systems.</p> <p>The detention of a person presupposes limitation of the fundamental human rights and freedoms of the citizen guaranteed with the Constitution. After a crime has occurred, police officers, in order to resolve the case, need to detain persons in legally provided situations. For that reason, using this authorisation should be done in a professional and legal way in order to implement the law, but not to overstep the authorisations and not to violate or limit a right or freedom outside the legal regulations.</p> <p>When detaining a person, police officers should act professionally and respect the stipulated procedure for detaining a person; they should be humane and respect human dignity. A person has to be detained within a specific legal deadline and in premises specifically equipped for detention. The police officer admitting the detained person must prepare the necessary official documents and enter the data in the registry of the PS.</p>	

	<p>Example – situation: The commander of a PS receives a complaint by a juvenile who was detained in the police station. The detention was conducted by 3 civilians who presented themselves as employees of the MoIA, and while the juvenile was in detention they asked him if he was the perpetrator of a crime that occurred a few days earlier. When the juvenile was interrogated, a uniformed police officer was also present and hit the juvenile below his knee several times. The juvenile was also hit by the inspector conducting the interrogation. Then they left together with the juvenile to search his home in order to find the stolen item. Upon returning to the police station together with his family, they were given minutes to sign, and they signed them although they did not know what was written inside, wanting to leave the station as soon as possible.</p>	
Expected results	<p>At the end of this LA, the police officer:</p> <p>Will know :</p> <ul style="list-style-type: none"> - the legal deadlines for detaining a person - what information should be registered with regard to the detained person <p>Will be able:</p> <ul style="list-style-type: none"> - to detain a person following a stipulated procedure - to search a detained person - if needed, to ask for medical help for the person - to write the necessary documents for the detained person - to inform the judge of preliminary proceedings and the public prosecutor 	
Legal framework	<p>Constitution of the Republic, Article 12</p> <ul style="list-style-type: none"> - Code of Criminal Procedure Articles 157-161 - Law on Misdemeanours - Law on Police, Article 39(4) and Article 50 - Law on Juvenile Justice, Article 116 - Law on Foreigners - Rulebook on the Manner of Performing Police Affairs Articles 25-27 - Rules of Procedure for Temporarily Confiscated and Found Items by police officers - Rulebook on the Content and Manner of Maintaining of Police Records and the Type and Content of the Form for Police Records - Standard Operational Procedure for the Treatment of Persons with Limited Freedom of Movement (apprehended, deprived of liberty, persons in police detention) - European Convention on Human Rights, Article 5 - European Declaration on the Police - Code of Conduct for Law Enforcement Officials - Convention on the Rights of the Child 	

	<ul style="list-style-type: none"> - Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment - Human Rights Concept for the Police - Police practice and human rights - European introduction - The Police and the Human Rights - Manual for police training 	
LA questions	<ol style="list-style-type: none"> 1. What are the rights of detained persons with regard to medical care? 2. What are the rights of the persons detained in a police station? 	



		Date 19 Sept. 2014
Learning assignment: version for instructors		No:3.1
Core activity	Detention and Prevention of Ill-Treatment	Version: 4
Learning assignment	Detention and Prevention of Ill-Treatment	Location Organisational units in MoIA
		Time needed: 9 classes
ORIENTATION		
Learners will focus on the learning assignment	<p>Discussion with the police officers in order to determine their previous knowledge on the subject by posing closed questions. Presenting the legal framework regarding the procedures for detention, the police proceedings concerning the treatment of detained persons, and what constitutes ill-treatment of detained persons.</p> <p>To that end, by asking open questions concerning this topic, police officers should first discuss their previous knowledge and define their rights and duties regarding detention, as well as the legal proceedings in order to decrease the possibility of misuse and violation of human rights and freedoms.</p> <p>Participants should give examples of unethical conduct by police officers that they have noticed or become aware of through the means of mass communication.</p> <p>Then, the discussion expands to the procedures for detention and the treatment of detained persons.</p> <p>The instructor should help by explaining the main objectives of the police in a democratic society. The instructor will describe and explain what the advantages of taking legal action are and that the concept of human rights and freedoms must be respected.</p> <p>Police officers should know the legal framework and should acquire competences concerning the detention procedure.</p> <p>They focus on the description and expected results of the learning assignment on the one hand, and the test for evaluating the competence on the other hand.</p> <p>If the learning assignments are adequately presented to the police officers, they will be able to focus on the requested results in the remaining time for the learning assignments.</p>	
Planning of learning activities	This LA will be realised through 6 activities within 3 thematic units with training in the classroom by the following order:	

<p>- Methods - Time - Schedule</p> <p>-individual/ group learning activities</p>	<p>LA thematic units:</p> <ul style="list-style-type: none"> • Thematic unit 1: Legal grounds for detaining a person • Thematic unit 2: Preparing official material • Thematic unit 3: Ill-treatment of detained persons <p>Activity 1: Thematic unit 1: Legal grounds for detaining a person Duration: 1 class Location: classroom Method of work: self learning, discussion, group work</p> <p>Activity 2: Thematic unit 1: Detention procedure and procedure for the treatment of detained persons Duration: 2 classes Location: classroom Method of work: self learning, discussion, work in groups, video-scenario for detaining a person</p> <p>Activity 3: Practical tasks –1 hour Location: classroom Method of work: practical tasks, feedback and reflection</p> <p>Activity 4: Thematic unit 2: Preparing official material on detention Duration: 1 hour Location: classroom Method of work: self-learning, work in groups, discussion</p> <p>Activity 5: Thematic unit 3: Ill-treatment of detained persons Duration: 1 class Location: classroom Method of work: self-learning, discussion, group work</p> <p>Activity 6: Thematic unit 3: Ill-treatment of detained persons Duration: 3 classes Location: classroom Method of work: practical tasks and scenarios, feedback and reflection</p> <p>Activities for the participants:</p> <ul style="list-style-type: none"> - Discussions - Work in small groups - Acquire competences for realising LA
PERFORMANCE	
<p>Roles of the instructor – directing the listeners</p> <p>- control of the learning processes</p>	<p>Instructor</p> <ul style="list-style-type: none"> - directs, - clarifies, - discusses - facilitates - participates in demonstration - asks and answers questions - monitors the learning process <p>The instructor has to monitor this process from aside to be sure that the learners are moving in the right direction.</p>

EVALUATION	
Evaluation - plenary evaluation with learners - individual evaluation with a learner	Evaluation Plenary - through participation in discussions - asking questions Individual - participation in discussions - asking and answering questions - performing the assignment - self-learning
LEARNING RESOURCES AND MATERIALS	
Learning - resources - materials - IT	The Constitution Code of Criminal Procedure Law on Misdemeanours Law on Police Law on Juvenile Justice Law on Foreigners Rulebook on the Manner of Performing Police Affairs Rules of Procedure for Temporarily Confiscated and Found Items by Police Officers Rulebook on the Content and Manner of Maintaining of Police Records Standard Operational Procedure for the Treatment of Persons with Limited Freedom of Movement (apprehended, deprived of liberty, persons in police detention) European Convention on Human Rights, European Declaration on the Police Code of Conduct for Law Enforcement Officials Convention on the Rights of the Child Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment Human Rights Concept for the Police Police practice and human rights – European introduction The Police and Human Rights – Manual for police training flipchart, markers, paper, projector, lap top
PREPARED BY/ AUTHORS	Rozalita Dojcinoska, Police Adviser Dragana Kiric-Trpovski, Senior Adviser
Who is responsible for the learning assignment?	Working group within the project: Nojko Stojcevski, Senior Adviser Lecturer Aco Kamčev, Senior Adviser Suza Trajkovska, Adviser Trainer Arben Jashari, Adviser Trainer Blagoja Stojanovski, Senior Inspector External members: Slavica Andreevska, Judge of preliminary proceedings Jovan Ilievski, Public Prosecutor

Activity 1: Thematic unit 1: Legal grounds for detaining a person**Duration:** 1 class**Location:** classroom**Method of work:** self-learning, discussion, group work**Note for the instructor:**

The instructor divides the police officers in five groups and gives an assignment to each group to review legal regulations on authorisations for apprehension, deprivation of liberty and detention:

1. European Convention on Human Rights – Article 5
2. Constitution – Article 12
3. Code of Criminal Procedure – Article 159
4. Law on Police – Article 50
5. Law on Juvenile Justice – Article 116

– 10 - 15 minutes

Afterwards, each group presents what they have done – 30 - 35 minutes

The legal framework that regulates the authorisations for apprehension, deprivation of liberty and detention is provided in the European Convention on Human Rights, the Constitution, the Code of Criminal Procedure, the Law on Misdemeanours, the Law on Police, the Law on Juvenile Justice, the Rulebook on the Manner of Performing Police Affairs and the Code of Police Ethics.

EUROPEAN CONVENTION ON HUMAN RIGHTS

The European Convention on Human Rights is the core document of the Council of Europe establishing the standards for protection of human rights and freedoms.

The Convention sets out the rights of the persons with limited freedom of movement. Every person deprived of liberty must immediately be informed, in a language he/she understands, of the reasons for which he/she is deprived of liberty and about all the charges brought against the person.

Any person who is deprived of liberty or detained must be brought before a judge, has the right to a trial in a reasonable time or to be released during the court procedure.

Article 3 of the European Convention on Human Rights explicitly prohibits torture: NO ONE SHALL BE SUBJECT TO TORTURE OR TO INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT.

The Declaration on the Police and the Code of Conduct for Law Enforcement Officials prescribe the minimum values, standards, and ethical frames of conduct; they also have a regulatory function by providing adequate control of the police service activities, in order to eliminate the anomalies in the lines of the police service and to create a proactively oriented service.

CONSTITUTION

The fundamental human rights and freedoms recognised in international law are the core values stipulated in the Constitution.

The citizens are all equal in their rights and freedoms, regardless of gender, race, colour, national or social origin, political or religious conviction, property or social status.

Citizens are equal before the Constitution and the laws.

In accordance with the Constitution human freedom is inviolable: "No person's freedom can be restricted, except by a court decision or in cases and procedures determined by law.

Persons summoned, apprehended or detained shall immediately be informed of the reasons for the summons, apprehension or detention and on their rights. They shall not be forced to make a statement. A person has a right to an attorney in police and court procedure.

Persons detained shall be brought before a court as soon as possible, within a maximum period of 24 hours from the moment of detention, and the legality of their detention shall there be decided upon without delay."

CODE OF CRIMINAL PROCEDURE

The Code of Criminal Procedure defines the police authorisations, the procedure for apprehension with a court order, the procedure for deprivation of liberty without a court order and detention.

DETENTION

A person deprived of liberty may be detained in a specially designated police station. The custody police officer in the station decides in a specially written and elaborated decision whether the person will be detained. The custody police officer in the station is obliged to inform the public prosecutor immediately after the admission of the person deprived of liberty and put that down in the minutes on detention.

The CCP stipulates the data that needs to be included in the minutes on detention, and a copy of the minutes is given to the detained person when the person is released or handed in to the judge of preliminary proceedings. If the person is transferred to another police station, a copy of the minutes is given to the custody police officer in that police station.

LAW ON POLICE

According to the Law on Police, a police officer can detain a person who is suspected of committing a crime for which the person is prosecuted ex officio under the conditions and in a manner laid down in a special law. According to the Code of Criminal Procedure, detention may last 24 hours at most.

If the person was caught while committing a misdemeanour or if the person disrupts or endangers the public law and order, and the public law and order cannot be re-established and the risk cannot be eliminated in another way, the police have the authorisation to keep the person 12 hours at most under the conditions and in a manner laid down in a special law.

A person under the influence of alcohol and other substances may be detained for 8 hours at most under the condition and in a manner laid down in a special law. Detention shall cease as soon as the reasons for the detention have been eliminated.

The Law on Police has a legal provision concerning detention of a person that refuses to give or is not able to provide data about himself/herself or to prove his/her identity. In these circumstances the person may be detained for the period needed to determine his/her identity, but no longer than 3 (three) hours, except where the conditions of the Law on Police are fulfilled.

The person detained for his identity to be checked is allowed to prove his/her identity in any of the stipulated ways.

The Law on Police stipulates thirty eight (38) police stations in which persons will be detained.

LAW ON JUVENILE JUSTICE

A juvenile may be detained in a police station for 12 hours at most.

Authorised officials of the Ministry of Internal Affairs may detain a juvenile for eight hours at most when caught committing an action that is by law defined as an offence against the public law and order, if the public law and order cannot be re-established or when the person is under the influence of alcohol, drugs, and other substances.

A juvenile brought in by a foreign security authority to be escorted to a competent state authority may be detained for 12 hours at most.

When a child is detained, under the conditions provided by law, authorised officials of the Ministry of Internal Affairs are obliged to inform immediately the competent public prosecutor, judge for juveniles, i.e. the judge of preliminary proceedings, the parent i.e. the guardian, the juvenile's defence attorney and the centre for social work. Notification in emergency cases is done by phone, but it is also submitted in written form within 24 hours.

During detention, an interview with the child is not possible without the presence of an attorney.

If the juvenile or his/her parents i.e. guardian does not choose an attorney, the officials of the Ministry of Internal Affairs will appoint a defence attorney out of the list of lawyers submitted by the Bar Association.

Minutes are drafted with regard to the detention. The minutes are signed by the parents i.e. guardian as well as the defence attorney.

Detaining a juvenile longer than 6 hours must be approved by the custody police officer in a specifically designated and equipped police station.

Without delay and within 12 hours at most, the detained juvenile shall be brought before a judge for juveniles who will decide whether to detain or to release the juvenile.

If the judge decides that there are no grounds to detain the juvenile, then a release decision will be brought in which the legality of the detention will be evaluated.

RULEBOOK ON THE MANNER OF PERFORMING POLICE AFFAIRS

The Rulebook on the Manner of Performing Police Affairs defines closely the police authorisations: deprivation of liberty, apprehension with a court order, apprehension without a court order, detention of a person, including the rights that should be told to the detained person, such as the right to remain silent, the right to consult a lawyer and the right to have a defence attorney at his/her choice during the interview, as well as the right to inform a member of his/her family or a close friend.

Activity 2: Thematic unit 1: Procedures for detention and treatment of detained persons

Duration: 2 classes

Location: classroom

Method of work: self-learning, discussion, group work, video-scenario for detaining a person

Note for the instructor:

Discuss with the police officers the standard rules that apply for detained persons. Divide the police officers in three groups, give them examples they will work on in groups for 10 minutes and then, their representatives will present the work the group has done.

- First group: Rights of apprehended and detained persons
- Second group: Rules and practice concerning the treatment of juveniles
- Third group: Rules and practice concerning the detention of foreign citizens

After each presentation, open a discussion with the other police officers in view of certain remarks and additions.

The participants are presented a video scenario on detention.

SEQUENCE OF STANDARD RULES THAT APPLY FOR DETAINED PERSONS

- A) Checking the identity,
- B) Search and confiscation of items that the detained person may use for assault or self-injury,
- C) Notifying the public prosecutor immediately after the admission of the person deprived of liberty,
- D) Informing the detained person about his/her rights:
 - the right to be informed about the reasons for limiting his/her right of movement (in the language the person understands);
 - the right to remain silent and not to testify against himself or against another person;
 - the right to a lawyer (to consult a lawyer in private, to have a defence attorney at his/her choice during interrogation);
 - the right to medical help;
 - the right to inform a member of the family of the detained person or a close person at his/her choice.

All the rights can be exercised by the person at any time of the procedure.

E) Preparing a written elaborated decision, filling the minutes on detaining a person and opening a separate file on detained persons.

F) Registering the detention in adequate records within the Records of Daily Events related to performing Police Affairs (Form No. 55) and in the Records on Persons Deprived of Liberty and Detained Persons (Form No. 3).

PROCEDURES FOR RECORDING DETAINED PERSONS AND THEIR FURTHER TREATMENT IN THE POLICE STATION

- A detained person/person deprived of liberty shall be handed in to the custody officer in the adequate police station within 6 (six) hours. If the person is brought to the police station even before the minimum determined by law and the conditions for detention are fulfilled, the custody officer in the police station - shift leader shall start the procedure for detention immediately.

- The person deprived of liberty is handed to the custody officer - shift leader in the police station, who approves the detention of the person in the police station, for which a decision for detention is prepared. The shift leader takes measures to check the identity of the detained person regardless if it was done on the field.

- Immediately after the custody officer in the police station - shift leader is handed in the person, he informs the public prosecutor, and the notification is registered in the minutes on detention of the person (name and surname of the public prosecutor, time and manner of notification).

- The person is searched and all items suitable for hurting other persons or inflicting self-injury are temporarily confiscated from the detained person. Minutes on the performed search of the person, vehicle or luggage are filled. The search is done in a separate room or in a place not accessible to the public or to other police officers. The search is done by at least two police officers with a special care as regards personal safety. The custody police officer is in charge of the search.

Minutes on the found and confiscated items are completed in 4 copies and one copy is given to the detainee. The detainee signs the minutes. If he/she refuses to sign the minutes, this will be noted in the minutes. In that case, the police officers will put the whole name and surname in the minutes.

As soon as the detention ends, the person is given back the temporarily confiscated items with a receipt on returned items, except for those items that are subject to a criminal or misdemeanour procedure.

- The shift leader takes care of the safety of the person or, if he is absent, it is done by the police officer on duty, by monitoring the detained person and his/her condition checking on him occasionally in view of protecting his/her personal safety and preventing possible escape.

Special emphasis should be placed on undertaking the necessary security measures when accompanying the detained person from the room to the toilet for the reason that he/she might threaten his/her personal safety as well as the safety of the police officers. The person should be accompanied by at least two police officers who must be cautious concerning the manner in which they carry their weapons and equipment and should not let the detained person be in contact with them.

- The shift leader **informs the detained person of the person's rights** reading him/her his/her rights, in accordance with the Code of Criminal Procedure and the Law on Police.

The shift leader informs the detained person in a clear and unambiguous manner, and in the language the detained person understands, about the reasons for his/her detention, about his/her right to remain silent, the right to an attorney at his/her choice in the police procedure, the right to medical help if the person requests so or if it is imposed by the custody police officer – shift leader and to inform a member of the family or a close person about the detention.

The detained person signs the minutes confirming that he/she was informed of the rights and this is evidence that the detained person was informed of his/her rights.

The detained person may exercise his/her rights at any time during the detention.

If the detained person requests **the presence of and discussion with an attorney**, the police officer will enable him to call a lawyer of his choice, i.e. will present him/her a list of lawyers submitted to the police station by the Bar Association and without making any suggestions, will let him/her choose one of the offered lawyers. Regardless if the detained person requests a lawyer or not, he/she shall put his/her signature in the specified space in the minutes. If the person requests a lawyer, all the activities will be delayed until the lawyer arrives, **but no longer than 2 hours from the moment of calling the lawyer**. The detained person may talk to/consult the lawyer in private and the lawyer may attend the interview of the person. The person can also additionally invoke his right to attorney.

The psychological and physical condition of the detained person is determined (visible injuries, signs of illness, mental disorder, etc.). If the detained person is injured, the custody police officer – shift leader will order medical check-up. In case of serious injuries or if the detained persons says

he/she feels pain or is injured, the right to medical help is primary and is exercised before undertaking any other actions.

If needed, **medical help** is given to the detained person in the following manner:

- when the detained person is injured and does not request medical help, and the custody police officer – shift leader believes that doctor should not be invited, in agreement with the detained person, first aid will be provided by the police officer trained for first aid;

- if the detained person has physical injuries, ambulance will be called, (at the request of the detained person or by an order of the custody police officer – shift leader);

- if the detained person needs to be taken to the hospital, he/she will be taken to the hospital by the police officers or by ambulance.

The shift leader – custody police officer shall appoint a police officer/s who will accompany the detained person on the way to the hospital.

If, on the basis of the behaviour of the person deprived of liberty, the custody officer finds that the person is intoxicated, alcotest is carried out and medical help is provided depending on his/her general condition. Medical help is provided to the detainee if he/she states that he/she takes regular therapy (methadone, insulin or other type of therapy).

When an apprehended person, a person deprived of liberty, or a detained person is given medical help, an official note is prepared stating the person, the time and location where the medical help was given with a report of the performed search enclosed, if possible.

The official note is kept in the file for the detained person.

The detained person is allowed to **inform a member of his/her family**, a relative or a close person within 3 (three) hours by making a phone call from the police phone, free of charge.

The police officer – shift leader prepares the Decision on detention of the person, whereby the reasons for detention of the person are explained.

Minutes on detention of a person are prepared for each person. If a person with visible injuries, visible signs of illness, mental disorder, under the influence of alcohol, or under the influence of substances is apprehended/deprived of liberty, this will be recorded in the minutes.

In accordance with the Rulebook on the Manner of Performing Police Affairs, after preparing the minutes, the police officer reads the contents of the minutes to the detained person and the person signs them. If the detained person does not want to sign the minutes, the police officer explains the reason why he/she does not want to sign. The detained person is given a copy of the minutes after the reasons for detention are eliminated i.e. before handing the detained person in to the judge of preliminary proceedings. A

stamp of the organisational unit where the person was detained is put on the minutes.

- If a person is deprived of liberty in a police station (police station for border checks and border control) not designated for detaining persons or in a police unit, but there are legal grounds for the person to be detained, **IMMEDIATELY and within 6 hours at the latest**, the person is brought before the custody police officer – shift leader from the police station designated for detention. If for objective reasons the person cannot be brought before the custody police officer – shift leader after his/her deprivation of liberty, then the shift leader/ police officer on duty in the station where the person has been detained must inform the custody police officer – shift leader in the police station where the person is to be transferred in order to be detained, including the reasons why the person is not brought in the PS designated for detention immediately after the deprivation of liberty. The custody police officer – shift leader from the police station where the person will be detained, informs the public prosecutor forthwith.

Any delay that falls beyond the stipulated 6 hours shall be explained in an official note by the responsible police officer of the police unit, i.e. police station that is not designated for detention of persons.

A person apprehended/deprived of liberty in a police station (police station for border checks and border control) that is not designated for detention of persons is recorded in the Form No. 55 – Records on Daily Events Related to Performing Police Affairs, Form No. 2 – Records on Detained Persons i.e. Form No. 3 – Records on Persons Deprived of Liberty and Detained Persons.

The necessary official material is prepared for each person apprehended/deprived of liberty.

When the person is handed in from the PS that is not designated for detention of persons or from PU to a PS designated for detention with a view of his/her detaining, the person is handed in with copies of official materials that have been prepared in connection with the person, for example:

1. Official note on deprivation of liberty i.e. apprehending a person without a court order;
2. Advice on the person's rights;
3. Minutes on the performed search of a person, vehicle, or luggage;
4. Minutes on the performed inspection of a person, vehicle or luggage;
5. Minutes on the found or confiscated items;
6. Official note with a rationale concerning a delay of more than 6 hours (if any); and
7. Other submissions.

RULES AND PROCEDURES FOR INTERROGATING DETAINED PERSONS

- A detained person may contact the custody police officer – shift leader, the police officer on duty, the police officer working on crime affairs, crime technician, his/her defence attorney, doctor, or if the person detained is a foreign national - representative of a diplomatic and consular office.
- Other police officers may contact the detained person only with authorisation by the shift leader and only for performing police affairs. Every conversation with the detained person by other police officers in the premises of the police station, are noted by the shift leader in the detained person's file. The detained person must be accompanied by at least two police officers from the detention cell to the interview room.
- The Ombudsman, representatives of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment of the Council of Europe, representatives of the Subcommittee on Prevention of Torture and other types of inhuman treatment or punishment with the UN Committee against Torture have the right to visit detained persons without permission and approval and talk to them without surveillance.

RULES AND PRACTICE RELATED TO THE PROVISIONS FOR BASIC NEEDS SUCH AS FOOD AND WATER FOR DETAINED PERSONS

A detained person has the right to food and water. If the person has been detained for more than 6 (six) hours, food needs to be provided for him/her.

Food will be provided:

- with the detained person's money;
- with the money of his/her family;
- **from the budget of the Ministry of Internal Affairs**, upon submission of an invoice, or out of the petty fund kept in police stations.



RULES AND PRACTICE RELATED TO THE TREATMENT OF CHILDREN

According to the Law on Juvenile Justice, a child/juvenile is any person at the age of up to 18 years.

Police authorisations can apply for children – summoning in the police station and detaining a person, only under conditions strictly specified by law.

Deprivation of liberty of a child is performed only as a last resort in the procedure when that is truly necessary and is in accordance with the conditions defined by law.

The new concept of juvenile justice requires consistent implementation of the Law on Juvenile Justice by the police officers. The Law on Police stipulates that police authorisations with regard to minors are used by police officers that are specially trained for combating juvenile delinquency. Moreover, derogation is allowed in exceptional situations when specially trained police officers for proceeding with minors (inspectors dressed in civil clothes) cannot act, then the police authorisations towards juveniles may be used by other police officers as well.

The procedure for the treatment of children is the following:

1. The identity is checked and the event is registered in the official records;
2. During the police proceeding, the rights of the children are respected, especially as regards the protection of the right to privacy and non-exposing the child to curious people;
3. The physical and mental integrity of the child's personality should be respected;
4. A police officer – female shall be ensured if this is seen as the best solution for the child (for example, if a female child is detained);
5. The following persons shall be notified:
 - competent inspector
 - competent public prosecutor
 - judge for juveniles i.e. judge of preliminary proceedings
 - parent/guardian. When the parent/guardian cannot be present, then the Centre for Social Work is notified obligatorily and presence of a representative of the Centre is requested. The same procedure applies if it is found that the presence of a parent/guardian leads to additional victimisation of the minor (the parent/guardian is under the influence of alcohol, substances, is not able to take the responsibility for the child etc.);
 - the defence attorney (if the parent or guardians do not appoint an attorney, an attorney is mandatorily appointed out of the list of lawyers compiled by the Bar Association);

- Centre for Social Work.

The shift leader decides upon the detention of a child and takes care about the treatment of the detained child. The child must not be kept in the room for adults.

Detention may not last longer than 12 hours. In that period, the detained child must be brought without delay before the judge for juveniles, who will decide on determining detention or releasing.

As regards the detention, minutes are prepared in which all the data about the juvenile is entered, as well as the circumstances for his/her detention. The minutes on the detention are signed by the child and his/her parent/guardian as well as his defence attorney.

When authorised official persons find items with the child that are assumed to be drugs and other substances, they are confiscated and a receipt is prepared signed by the parent/guardian or the responsible person of the institution where the child lives;

During the conversation, the police officer needs to inform the child and his parent, i.e. guardian of the rights of the child in the procedure;

During the detention of a child, if the child is detained in a room, it should provide the basic conditions in terms of hygiene. Moreover, the child that will be detained must be provided with food, water to drink etc.;

When a child is identified to be under the influence of alcohol, substances, to have abstinence crisis, i.e. when it is found that the child has health problems or body injuries, or if the child detained in official premises requests medical help, it is necessary to notify immediately the emergency medical aid service, or to ask for professional help and a report with the doctor's opinion in the closest health institution.

Rules related to disabled persons detained by the police

Police officers should have special approach towards persons with disabilities (special needs).

When a disabled person is detained, primarily the family i.e. the guardian of the person is informed, and if needed, a doctor or a special medical centre is notified and the person is put in an adequate institution.

If a disabled person showing aggressiveness is detained in the police station, the person must be kept in a special room under special supervision of at least two police officers only until the arrival of a medical team.

Rules and practice related to detaining females

The same procedure applying to males applies to females as well, but:

- Only a female police officer may search a person in the presence of female witnesses;

- A detained female cannot be kept in the same room with male detainee/s.

Rules and practice related to detaining foreign nationals

Rules and procedures that relate to detaining our citizens are the same as those for foreign nationals. The difference is that in such a case the diplomatic and consular office needs to be informed.

In order to duly inform the diplomatic and consular offices in situations when certain police authorisations are undertaken towards foreign nationals (apprehension, deprivation of liberty, detention), it is necessary for the PS to inform the Sector for Reporting and Coordination of Situations in MoIA with a telegram, and when the Sector for Reporting and Coordination of Situations in MoIA makes a review, they should send it to the Directorate for Consular Affairs within the Ministry of Foreign Affairs.

Notifications must be sent in the following situations:

- when the right to free movement of a foreign national is limited i.e. when the foreign national is apprehended and detained in the police station, the shift leader i.e. the custody police officer informs with a telegram the Sector for Reporting and Coordination of Situations at the MoIA and lists the reasons and the legal grounds for limiting the freedom of movement of the person. When the person (foreign national) is brought before the judge of preliminary proceedings, a second notification containing the imposed measure by the judge (or the type of imposed measure) is sent to the Sector for Reporting and Coordination of Situations at the MoIA.

When preparing the notification, data about the foreign national must be written in the original form as in his/her ID document. The notification should not include abbreviations i.e. full titles of the organisational units and other data should be used.

The Sector for Reporting and Coordination will inform the Directorate for Consular Affairs within the Ministry of Foreign Affairs.

If the detained person does not speak or understand Macedonian language, the person is provided with a translator in one of the following ways:

- by finding a police officer in the police station who speaks the needed language;
- by contacting the Unit for Foreigners within the Ministry of Foreign Affairs;
- **by using the advice handouts translated in 7 languages** (Albanian, Turkish, Roma, German, French, Russian, English).

Detaining persons on the crime scene

- Police officers have authorisation to detain a person outside the official premises i.e. on the scene of the crime.
- If a person is caught on the crime scene and if that person/persons can give data significant for the criminal procedure, and the delay may lead to difficulties or further delays, the person will be detained on the crime scene.
- If there are grounds (need) for a person to be detained on the crime scene, the public prosecutor is notified, who will decide whether to keep the person on the crime scene until he/she arrives or will set the time when the person should be sent to his office.
- The person may be kept on the crime scene until the public prosecutor arrives, but not longer than 6 (six) hours, or the person can be referred to the public prosecutor.
- If the person is referred to the public prosecutor's office, the police officer shall inform the person about the time he/she should be in the PPO.
- An Official Note is prepared for the referral of the person and it is checked by phone if the person has arrived in the PPO at the time specified in the Official Note.
- The event is recorded on the basis of a prepared official note in Form No. 55 - Records on Daily Events Related to Performing Police Affairs.



Activity 3: Practical tasks - 1 class

Location: classroom

Method of work: practical tasks, feedback and reflection

Note for the instructor:

Participants discuss the examples. Certain time is dedicated to the analysis of a practical case presented by the participants.

Example 1

On 9 March 2014 at 22:30 Stankovski Jane is detained in the PS with the suspicion that he had committed a crime – trafficking of drugs. Police officer Goran enters the office of the shift leader Aleksandar in the PS and tells him that a detained person is waiting in the waiting room; the person behaved badly when he was deprived of liberty, he tried to escape and gave active resistance while being put in handcuffs. The shift leader Aleksandar tells the police officer Goran to prepare an official note for deprivation of liberty and Confirmation for handing in the person. The shift leader goes out of the office and in the waiting room, he notices the detained person restrained with handcuffs, sitting on the chair and complaining that he has pain in his shoulder. The shift leader does not ask him anything, he goes back to his office and asks the police officer Goran why the detained person is complaining. Goran says that he knows the person well, he is a good “actor”. Aleksandar trusts his colleague Goran, signs the handing in confirmation that the detained person is in good condition, and the police officer Goran leaves. On his way out, the police officer Goran removes the handcuffs and quietly says to the detained person Jane “Be careful of what you are saying, we will meet again.” The shift leader Aleksandar invites the detained Jane into his office and begins compiling the detention documentation. Upon reading Jane his rights, the shift leader asks him about his current health and Jane says that he has pain in the left shoulder and needs to see a doctor. The shift leader does not take into consideration what Jane is saying, he calls the police officer Dejan to search the detained person Jane and to put him in the detention room No. 2. Dejan tells Jane to stand in the centre of the office and orders him to take off his jacket, to take out everything off his pockets and to take out the belt. Jane asks Dejan to help him with the jacket. The shift leader Aleksandar does not let Dejan help Jane saying that the detained is a good “actor”. Jane manages to take off the jacket, and then he takes off the shirt; while he is doing that it is noticeable that his shoulder is red and bloody. When the shift leader Aleksandar notices the injury he shouts towards Jane that he was not asked to take off the shirt, he tells him to put his clothes on and tells Dejan to immediately put Jane in the detention

room. Then the shift leader Aleksandar informs the public prosecutor that a person, a suspect for crime “Unauthorised production and circulation of narcotics and substances” is detained in the PS. In 30 minutes inspectors Afrim and Sasho arrive in the PS in order to talk to the detained person. At the beginning of the interrogation Jane complains that he has strong pain in the left shoulder and cannot talk and he asks for medical help. The inspectors ask the shift leader to call an ambulance. When the ambulance arrives, they confirm that Jane is seriously injured and must be taken to the hospital, which they do. When checked at the hospital, serious injury is found and the person is kept for further medical treatment.

Example 2

On 28 April 2014 at 18:00 Salihi Sali was brought from the PS Centar to the PS Kisela Voda to be held in a detention cell in PS Kisela Voda since on the following day (29 April 2014) at 09:30 he was to be taken to the court, under a court order for apprehension with guards. The shift leader Jovan is handed in the person, he prepares the official documents and places the person in room No. 1. The person Salihi Sali is a known perpetrator of thefts in shops and the shift leader Jovan calls his friend Trajko who has a grocery shop in Keramidnica to bring the safety camera tapes since he believes that maybe Salihi is the perpetrator of thefts in his shop. When Trajko arrives together with Jovan, they check the tapes and notice that the shirt Salihi wears is the same as the one of the perpetrator in the shop. Trajko asks Jovan to let him see the person and to ask him why he broke in his shop. The shift leader Jovan allows Trajko to enter the detention cell where Salihi is kept. Trajko starts to talk to Salihi and he speaks as if he is an inspector. Trajko starts to offend Salihi, who starts to feel provoked and punches him suddenly in the face hurting him below the left eye and making a bruise on the place. Trajko is now provoked by Salihi's move and starts punching him and kicking him without control all over his body. The shift leader Jovan who is in his office reacts immediately and pushes Trajko outside the detention cell. Salihi has received visible injuries all over the body. Salihi asks for a medical help, but the shift leader Jovan does not allow this and threatens him that if he tells about the event there will be serious consequences for Salihi.

Activity 4: Thematic unit 2: Preparing official material for detention**Duration:** 1 class**Location:** classroom**Method of work:** self-learning, group work, discussion**Note for the instructor:**

Discuss with the police officers the meaning of registering the deprivation of liberty and detention in the official books. Give several examples from the daily police work.

Divide police officers into five groups and each group should prepare official documents. An Official Note on deprivation of liberty. A Decision on Detention of a person, Minutes on Detention of a person etc.

- A **special file is maintained for detained persons** in the police stations where persons are detained. This file contains all submissions by the police officers as regards detained persons. All boxes are filled on the first side of the file: the number of Records on Daily Events related to Performing Police Affairs, the number of the Records on Persons with Limited Freedom of Movement on Any Grounds (records on apprehended persons i.e. records on persons deprived of liberty and detained persons), name and surname of the detained person, date and time when the person was limited his/her right to free movement, date and time when the detention of the person ended. The second page is for all the submissions in the file and data as regards the time of interrogation of the person, who interrogated the person and in which room. The third page presents in a row all the rights of the person. The open file for the detained person is stored by the shift leader, as long as the detention lasts. When the detention ends, the file is stored in the monthly registry for detained persons. When the month ends, the monthly registry is put in the administration of the police station. The shift leader informs the public prosecutor immediately after the receipt of the person deprived of liberty. The notification is entered in the minutes on detention.



OFFICIAL MATERIAL:

- Folder on the detained person containing the following:
 - Official note on apprehension with a written order issued by a competent court
 - Official note on apprehension without a written order issued by a competent court
 - Official note on deprivation of liberty
 - Decision on detention
 - Minutes on detention
 - Minutes on performed search of a person, vehicle or luggage
 - Minutes on performed inspection of a person, vehicle or luggage
 - Confirmation of temporarily confiscated items
 - Advice on the rights
 - Minutes on temporarily confiscated items
 - Confirmation of returned items
 - Confirmation of handing in a person
 - Official note on a person's referral

ATTACHMENT – FORMS AT THE END OF THE LA

Activity 5: Thematic unit 3: Ill-treatment of detained person**Duration:** 1 class**Location:** classroom**Method of work:** self-learning, discussion, group work**Note for the instructor:**

The instructor divides the listeners into two groups with the following assignments:

1. First group: What is torture?
2. Second group: What is misconduct of a police officer with regard to a person detained in the police station?

Listeners work in a group for 10 minutes, and then each group presents their work in a period of 15 minutes.

Exercise

Ill-treatment of a detained person

In order to promote human rights, the country has ratified the UN Convention against Torture and Other Cruel, Inhuman and Degrading Treatment and Punishment. Accordingly, it is obliged to undertake all legal measures within its borders and not to exile or hand in a foreign national that could be exposed to torture.

According to the UN Convention against Torture and Other Cruel, Inhuman and Degrading Treatment and Punishment there are three basic elements that define torture:

- Intentionally causing physical and psychological pain;
- Existence of a specific objective, such as obtaining certain notification or confession, as well as punishing the person for the crime we think he/she committed;
- Actions taken by an official person or another person acting in an official capacity.

Torture presupposes taking actions with the intention to hurt a person, to inflict serious physical or psychological suffering in order to obtain information, confession or to punish the person for the crime we think he/she committed.

Torture is done by threatening or putting pressure to the person or a third person or for other reason like hatred based on any kind of discrimination (ethnic, gender...). But we have to know that torture does not include the suffering and pain caused by legal sanctions.

Our legal regulation defines torture as severe crime laid down in the Criminal Code:

“The person who, while performing service, as well as the person appointed by an official person or based on the official person’s consent, uses force, threat or other disallowed means or in an disallowed manner in order to obtain confession or some other statement by the defendant, witness, expert or another person, or will cause to someone else such physical or emotional suffering in order to punish him/her for a crime he/she perpetrated or for which he/she is a suspect or another person, who scares or forces him/her to give up a right, or who will cause such suffering due to any type of discrimination will be punished with a sentence of three to eight years imprisonment.”

Most reported cases of torture are done by the police during interrogation, detention or by officers in prisons while serving a prison sentence, as well as during wars on war prisoners.

We have to remember that there is no situation that justifies torture i.e. ill-treatment. Prohibition of torture is total and absolute. There are no exceptions, even in emergency situations like war.

There are different ways of giving physical pain or psychological suffering. There is no specified list of actions that constitute torture, but the most common examples in the police stations are the following:

- hitting on the palms
- hitting the instep of the feet
- slapping, kicking, hitting with a stick
- restraining with handcuffs to radiators
- preventing to sleep for longer periods
- not giving water
- putting out cigarettes all over the body
- breaking fingers
- forcing the person in a certain position, etc.

In the last decades, the concepts expressed in the ECHR are precisely defined by the European Court of Human Rights:

“Inhuman treatment” is when there is intentional causing of severe mental or physical torture.

The treatment or sanction for a person is “degrading” if the person is really degraded in front of others or the person is offended in order to act against his/her will or consciousness.

Some police officers when applying their authorisations in certain cases may act inadequately or may ignore human rights. Most common examples of ill-treatment of a detained person in a police station are the following:

- not being told the rights of the detained person
- not respecting presumption of innocence
- giving light and serious physical injuries
- discrimination
- confessions obtained under pressure
- detaining a person longer than the legally stipulated time limits and thus “obtaining more time”. This is practiced in order to collect evidence needed for the criminal charges.
- refusing to provide food and water to the detained person, as a means to force the person to help in finding evidence
- not allowing the detained person to contact a legal representative (the one appointed or chosen by the detained person)
- not allowing the detained person to see a doctor, although it is more than obvious that the person needs medical help or he/she has requested it
- not providing medical help, legal representative or not informing the family
- insulting on any grounds (racial, religious, national)
- not respecting the physical and psychological integrity of the personality of the detained person

Most common “excuses” for not respecting human rights of the detained person by the police officers used are:

- Perpetrators of crimes have bigger rights than the victims. What do we do with the victim’s rights?
- This person is guilty, but this time he will not “get away” because we (the police) will receive confession this time at any cost
- This person is a criminal and deserves no water or food
- Decision based on personal assessment that the detained person does not need to see a doctor, that the person pretends and that is why we will be good to the person, but we will not call a doctor
- Human rights are a “philosophy” and hinder efficient police work

The abovementioned actions may cause physical and psychological injuries:

- physical injuries – broken bones, wounds, burns, bruises, etc.
- psychological injuries – causing anxiety, fear, sleeping disorder, post-traumatic stress disorder, etc.

There is no torture if the pain or torture occurred when applying legal sanctions.

Example: the police have legal authorisations to use means that can cause pain and suffering (physical force, restraining with handcuffs, use of baton, etc.), but only if the use of those means is proportional with the threatening danger and is in accordance with the law.

INTERNATIONAL AND NATIONAL OVERSIGHT MECHANISMS

National Preventive Mechanism of the Ombudsman and the Committee for the Prevention of Torture (CPT)

The treatment of persons kept in police custody may be evaluated by the National Preventive Mechanism of the Ombudsman and the Committee for the Prevention of Torture, set up in accordance with the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

National Preventive Mechanism

The National Preventive Mechanism is an organisational unit with the task to prevent torture and other forms of cruel, inhuman and degrading behaviour.

The National Preventive Mechanism is set up with the Law on ratifying the Facultative Protocol of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment by the state.

In this law the state declares that the Ombudsman is appointed to act as a National Preventive Mechanism, and with his consent, non-governmental organisations and humanitarian organisations in the country may undertake some of his competences.

The National Preventive Mechanism has the following competences:

- To regularly pose questions as regards the treatment of persons deprived of liberty in order to prevent torture and other forms of cruel, inhuman and degrading treatment and punishment;
- Making recommendations to the relevant bodies in order to improve the treatment and the conditions for the persons deprived of liberty and to prevent torture and other forms of cruel, inhuman and degrading treatment and punishment, taking into consideration the relevant norms of the United Nations;
- To submit proposals and considerations as regards the existing and draft-legislation.

The National Preventive Mechanism has the following authorisations:

- regular (scheduled and non-scheduled) visits to places of detention;
- free access to all documents and information relating to the persons deprived of liberty;



- free access to all places of detention;
- communication without monitoring with detained persons, in person or with a translator, as well as with any other person that can provide information on the prevention of torture;
- freedom to select the place and persons he/she wants to visit and talk to.

The National Preventive Mechanism may visit the following places:

- police stations;
- penitentiary and correctional-educational institutions;
- psychiatric hospitals and institutions;
- other places of detention, as well as unofficial places for which the Ombudsman has information that in them people are being deprived of liberty.

Committee for the Prevention of Torture (CPT)

Police officers should know that police stations where persons are detained can be visited by the Committee for the Prevention of Torture at any time. The CPT was set up in accordance with the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, which was ratified by our country in 1997.

The Convention authorises the Committee for the Prevention of Torture to visit any member-state and to inspect places where people are detained by public authorities – including police stations and other places of police detention.

When a delegation of the Committee for the Prevention of Torture visits a police station, they have the right to a private conversation with the detained person and they pay special attention to the following questions:

- physical and mental condition of detained persons
- reasons for which the person is in police custody
- police detention cells and other places of detention
- administrative files for every detained person
- the right of detained persons to see an attorney and a doctor of their choice

The objective of the visits is to strengthen the protection of detained persons against ill-treatment and torture. The task of the Committee for the Prevention of Torture is not to judge or criticise the country or the police, but to help the country ensure that the treatment of detained persons will



not constitute torture or ill-treatment. In other words, the aim of the work of the Committee for the Prevention of Torture is to prevent ill-treatment or torture, rather than to react to a complaint after the ill-treatment occurred.

After each visit, the Committee for the Prevention of Torture prepares a report and submits it to the government, together with all recommendations, in order to lower the risk of ill-treatment or torture.

The Committee for the Prevention of Torture is an instrument aimed at preventing ill-treatment of persons deprived of liberty, i.e. helping the countries strengthen the protection of detained persons.

It is very important that the police officers do not see the Committee for the Prevention of Torture and the Ombudsman as enemies or a threat, but rather as professional bodies, whose main objective is to prevent ill-treatment or torture.

Every police officer has the responsibility to ensure humane treatment for all detained persons in the police station where he/she is on duty. Respecting the human rights of detained persons is a priority for everyone, including the police officers themselves.



Activity 6: Thematic unit 3: Ill-treatment of detained persons

Duration: 3 classes

Location: classroom

Method of work: practical tasks and scenarios, feedback and reflection

Note for the instructor:

Practical exercises and scenarios with police officers for the LA - 2 classes

To present to police officers a video scenario on detention

ATTACHMENT: SCENARIOS

SUMMARY:

One of the key elements of the lawful functioning of a democratic society must be that police officers know, understand and apply human rights standards in their everyday work. Better understanding regarding the needs for respect and protection of human rights by the police means additional safety for police officers in case they are confronted with certain ethical dilemmas during their work. That means that police officers will be aware of their duties and rights, as well as the duties and rights of the citizens, in order for the communication to reach an extent of which both sides will be satisfied.

For that reason the effective training of the police in the area of human rights is an important element in the global efforts for promotion and protection of human rights in every country. Police officers come across situations in which it is most important to know the norms, in particular in view of applying the police authorisations.

Taking into consideration that one of the fundamental democratic human rights is the right to personal freedom, the training of police officers on the use of the police authority police detention and their familiarisation with the term torture and ill-treatment is very significant and will enable the police officers to fulfil their duties in a professional way, which is the basis for effective action and performing complex tasks on their work positions.

This training is very important because respecting human rights enhances the society, personal and general safety and welfare. Every police officer should respect and implement the rule of law because human rights are the milestone of freedom, peace, justice and development.

Accountable police must ensure that deprivation of liberty and detention are implemented fully in accordance with the law.

Thus, the priorities and objectives of the MoIA will be accomplished in accordance with the Strategic plan – **Protection of human rights and freedoms**, guaranteed with the Constitution and the laws of our country, as well as with the ratified international documents.

QUESTIONS:

1. What are the rights of the detained person that refer to medical care?
2. Give several examples of ill-treatment.
3. What are the rights of persons detained in a police station?



BIBLIOGRAPHY – REFERENCE:

- Constitution of the Republic
- Code of Criminal Procedure
- Law on Misdemeanours
- Law on Police
- Law on Juvenile Justice
- Law on Foreigners
- Rulebook on the Manner of Performing Police Affairs
- Rules of Procedure for Temporarily Confiscated and Found Items by Police Officers
- Rulebook on the Content and Manner of Maintaining of Police Records
- Standard Operational Procedure for the Treatment of Persons with Limited Freedom of Movement (detained, deprived of liberty, persons in police custody)
- European Convention on Human Rights
- European Declaration on the Police
- Code of Conduct for Law Enforcement Officials
- Convention on the Rights of the Child
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- Human Rights Concept for the Police
- Police practice and human rights – European introduction
- The police and human rights
- Manual for police training

SCENARIO FORM NO. 1- DETENTION OF A SUSPECT

Learning assignments: Practical tasks and scenarios for detaining a suspect

Names: Petre Kirov, Dobre, Ilija Manov

Context scenario

On 1 August 2014 the person Petre Kirov was deprived of liberty and brought in the PS because he was under suspicion that he had committed a crime – Homicide. The person has to be kept in the PS for further proceedings.

Description of the role

A. Police officers

1. You are Dobre, a police officer - shift leader. The person Petre Kirov was deprived of liberty and brought in the PS because he is under suspicion of having committed a crime – Homicide.
Undertake the necessary measures.

Description of the role

B. Civilian role – a detained person

You are Petre Kirov, a suspect for the crime – Homicide of the person Ilija Manov. You were brought in the PS, handed in to the police officer - shift leader.

During the procedure for detention, you want to use the right to an attorney and medical help.

Expected results

- To check the identity of the person
- To conduct the procedure for detention of a suspect in a PS
- To write official material



SCENARIO FORM NO. 2 – INADEQUATE DETENTION OF A SUSPECT BY THE POLICE OFFICER

Learning assignment: Practical exercises and scenarios for detaining a suspect

Names: Asan M., Ilir S.

Context scenario

On 6 July 2014 the person Asan M. was deprived of liberty and brought in the PS because he is under suspicion that he committed a crime – Burglary. The person has to be kept in the PS for further proceedings.

Description of the role

A. Police officer - shift leader

1. You are Ilir S., a police officer - shift leader. The person Asan M. was deprived of liberty and brought in the PS because he is under suspicion that he has committed a crime – Burglary.

When detaining the person you will not tell him his rights, you will force him to sign a blank document, no confirmation will be prepared for the confiscated items, you will not call a doctor although the detained person asks for medical help.

Description of the role - detained person

You are Asan M. under suspicion that you committed a crime – Burglary. You were brought in the PS, handed in to a police officer - shift leader. Being detained, you want to inform a family member and you ask for medical help since you feel pain in your chest. You are scared and you obey the orders of the police officer - shift leader

Expected results

- To check the identity of the person
- To detain the suspect in the PS
- To write official material

SCENARIO FORM NO. 3 – DETAINING AN APPREHENDED PERSON WHO IS THE PERPETRATOR OF AN OFFENCE, COMMITTED UNDER THE INFLUENCE OF ALCOHOL

Learning assignment: Practical exercise and scenario on detaining a person who is the perpetrator of an offence committed under the influence of alcohol

Names: Mladen T.

Context scenario

On 3 May 2014 the person Mladen T. is apprehended in a PS under the influence of alcohol. The person continues the offence and needs to be detained in the PS.



Description of the role

A. Custody police officer - shift leader

1. You are a police officer - shift leader. The person Mladen T. is detained in the PS for committed offence and a possibility to continue the offence. Deal with the situation.

Description of the role - detained person

You are Mladen T. detained for a committed offence. You are under the influence of alcohol, aggressive and you argue with the police officer. You request to go from the detention cell to the toilet quite often, you knock on the bars and speak to the police officer offending him/her.

Expected results

- To determine the identity of the person
- To detain the suspect in the PS
- To write official material

MINISTRY OF INTERNAL AFFAIRS

(name of the organisational unit)

No. _____
_____20_____

Pursuant to Article 24 (1) of the Rulebook on the Manner of Performing Police Affairs, the following note is prepared:

OFFICIAL NOTE
on apprehension with written order issued by the competent court
No. _____ dated _____20_____ of _____

By the police officer _____, from _____.
(name and surname) (name of the organisational unit)

On _____20_____, at _____, from the address _____ I apprehended
(street, number and place)

the person _____, born on _____, state _____,
(name and surname)

with Uniform civic number _____ residing in _____, str. _____,
No. _____, with ID card number _____, or passport No. _____, issued by
_____.

During the apprehension THERE WERE ☐, THERE WERE NOT ☐ any problems or other circumstances that would further complicate the apprehension.

NOTE: _____

_____. The person **WAS INFORMED AND TOLD HIS/HER RIGHTS ☐, WAS NOT INFORMED AND TOLD HIS/HER RIGHTS ☐** pursuant to Article 69 of the Code of Criminal Procedure and Article 34 of the Law on Police. During the apprehension, **PERSONAL SEARCH WAS CONDUCTED ☐ PERSONAL SEARCH WAS NOT CONDUCTED ☐**

During the search the following items were found and confiscated:

On _____ (date), at _____ (time) the apprehended person _____
was handed in to _____.
(to whom/where was the person handed in)

POLICE OFFICER

MINISTRY OF INTERNAL AFFAIRS

(name of the organisational unit)

No. _____

20

Pursuant to Article 24 (2) of the Rulebook on the Manner of Performing Police Affairs, the following note is prepared

OFFICIAL NOTE

on apprehension without written order issued by the competent court

By the police officer _____, from _____.
(name and surname) (name of the organisational unit)

On ____20____, at____, I apprehended the person _____, with Uniform Civic
(name and surname)

No. _____, born on _____, in _____ state _____, residing
in_____, str. _____, No._____, with ID card number_____, or passport

No. _____, issued by _____. I took the person to _____
(name of the organisational unit)

because of the following: _____

During the apprehension THERE WERE ☐ THERE WERE NOT ☐ any problems or other
circumstances that would further complicate the apprehension.

NOTE: _____

_____.The person WAS
INFORMED AND TOLD HIS/HER RIGHTS ☐, WAS NOT INFORMED AND TOLD HIS/HER
RIGHTS ☐ pursuant to Article 69 of the Code of Criminal Procedure and Article 34 of
the Law on Police.

During the apprehension PERSONAL SEARCH WAS CONDUCTED ☐, PERSONAL
SEARCH WAS NOT CONDUCTED ☐.

During the search the following items were found and confiscated:

On (date) _____, at (time)_____ the apprehended person _____ was
handed in to the custody police officer-shift leader_____ in _____
(name of the organisational unit).

POLICE OFFICER

MINISTRY OF INTERNAL AFFAIRS

(name of the organisational unit)

No. _____
_____20_____

Pursuant to Article 158 (3) of the Code of Criminal Procedure and Article 14-a (3) of the Rulebook on the Manner of Performing Police Affairs, the following note is prepared

OFFICIAL NOTE
on deprivation of liberty

On _____, at _____, the police officer _____
(name and surname and name of the organisational unit)
in _____ str. _____, No. _____, deprived of liberty the person _____
(place)
born on _____ in _____ with Uniform Civic No. _____, residing in
_____, str. _____, No. _____.
BECAUSE OF (explanation of the reasons for deprivation of liberty):

During the deprivation of liberty THERE WERE ☐, THERE WERE NOT ☐ any problems or other circumstances that would further complicate the detaining.

NOTE: _____

_____. The person **WAS INFORMED AND TOLD HIS/HER RIGHTS ☐, WAS NOT INFORMED AND TOLD HIS/HER RIGHTS ☐** pursuant to Article 69 of the Code of Criminal Procedure and Article 34 of the Law on Police.

During the deprivation of liberty PERSONAL SEARCH WAS CONDUCTED ☐, PERSONAL SEARCH WAS NOT CONDUCTED ☐.

During the search the following items were found and confiscated:

At _____ (time) the person deprived of liberty was handed in to the custody police officer – shift leader _____ in _____
_____.
(name and surname) (name of the organisational unit)

Informed persons: Public Prosecutor _____ from _____ informed on _____, at _____.
Preliminary Proceedings Judge _____ from _____ informed on _____
at _____.
(name and surname)

HANDED BY

RECEIVED BY

MINISTRY OF INTERNAL AFFAIRS

(name of the organisational unit)

No. _____

20

Pursuant to Article 160 (1) of the Code of Criminal Procedure and Article 25 (1) of the Rulebook on the Manner of Performing Police Affairs, the following decision is issued

DECISION on detention



The person _____, born on _____, in _____ state _____ with
(name and surname)

Uniform Civic No. _____, nationality _____, residing in _____, str. _____, No. _____, with ID card number _____, or passport No. _____, issued by _____, was deprived of liberty on _____ at _____:

The person IS DETAINED because of the following:

(the reasons for detention pursuant to Article 159 (1) of the Code of Criminal Procedure are stated)

The person was brought before the custody police officer – shift leader on _____ at _____.

Explanation

Place stamp here

POLICE OFFICER

MINISTRY OF INTERNAL AFFAIRS

(name of the organisational unit)

No. _____

_____20_____

Pursuant to Article 161 (4) of the Code of Criminal Procedure and Article 26 (1) of the Rulebook on the Manner of Performing Police Affairs, the following Minutes are prepared

MINUTES on detention

The person _____, born on _____, in _____ state _____ with
(Name and surname)

Uniform Civic No. _____, residing in _____, str. _____, No. _____, with ID
card number _____, or passport No. _____, issued by _____, has been
detained.

THE PERSON WAS DETAINED in the police station _____ on _____,
at _____ by the police officer, BECAUSE OF THE FOLLOWING:

The public prosecutor _____ has been informed of the detention on
_____ at _____.

THE PERSON WAS APPREHENDED ☐ THE PERSON WAS DEPRIVED OF LIBERTY ☐ on
_____, at _____ by the police officer _____ from the
(name and surname)

(name of the organisational unit)

SIGNATURE OF THE DETAINED PERSON

(regarding the time and date of the deprivation of liberty)

1. THE DETAINED PERSON

WAS TOLD HIS/HER RIGHTS ☐
WAS NOT TOLD HIS/HER RIGHTS ☐

The person WAS TOLD HIS/HER RIGHTS on _____20_____, at _____, pursuant
to Article 69 of the Code of Criminal Procedure and Article 34 of the Law on Police.

THE PERSON WAS TOLD HIS/HER RIGHT TO ATTORNEY on _____, at _____, in the premises of _____ and he/she:

(name of the organisational unit)

- WANTS TO HAVE AN ATTORNEY ☐ on _____, at _____,
- DOES NOT WANT TO HAVE AN ATTORNEY ☐

The person ADDITIONALLY REQUESTED TO EXERCISE HIS/HER ATTORNEY RIGHT on _____, at _____.

The attorney _____ was contacted on _____, at _____ and came in the
(name and surname)

premises of the _____, on _____, at _____.
(name of the organisational unit)

ATTORNEY

SIGNATURE OF THE DETAINED PERSON

(signature)

(regarding the fact that he/she has been told his/her rights)

2. During the detention of the person the **FOLLOWING MENTAL AND PHYSICAL CONDITION** was determined:

- THERE WERE VISIBLE INJURIES ☐
- THERE WERE NO VISIBLE INJURIES ☐

The injuries are the following:

THE PERSON SHOWED ☐ **DID NOT SHOW** ☐ visible signs of disease, mental disorder, alcoholic condition, influence of narcotic means. The signs are: _____

THE PERSON HAD the need for a doctor ☐ **DID NOT HAVE the need for a doctor.** ☐

The health institution _____ and the doctor _____ were informed on _____, at _____.

3. The family of the detained person was contacted on _____ at _____. The contact was made with _____.
(name, surname and relation)

A diplomatic-consular office _____ was contacted on _____, at _____.

Other contacted persons:

_____ on _____ at _____.

4. An official interview was held with the detained person in the premises of the _____, for the reasons of his/her detention
(name of the organisational unit)

by the following police officers:

_____ on _____, at _____
(name, surname and organisational unit)

_____ on _____, at _____
(name, surname and organisational unit)

_____ on _____, at _____
(name, surname and organisational unit)

_____ on _____, at _____
(name, surname and organisational unit)

5. The person WAS MOVED ☐, WAS NOT MOVED ☐ to premises of another police station.

The person was moved to the police station _____, on _____, at _____, because of the following: _____.

The person was brought before a competent court on _____, at _____.

THE PERSON WAS RELEASED / THE DETENTION CEASED on _____, at _____.

SIGNATURE OF THE PERSON

The detention in the premises of _____, lasted from _____
(name of the organisational unit)
_____, on _____ to _____, on _____.

NOTE:

_____.

The detained person is given a sample of the minutes as soon as the detention has ceased, pursuant to Article 26(4) of the Rulebook on the Manner of Performing Police Affairs and he/she is referred to Article 162 of the Code of Criminal Procedure.

(signature of the detained person)

Place stamp here

(police officer)

MINISTRY OF INTERNAL AFFAIRS

(name of the organisational unit)

No. _____

20

Pursuant to Article 276 (3) of the Code of Criminal Procedure and Article 54 (3) of the Rulebook on the Manner of Performing Police Works, the following minutes are prepared

MINUTES
on search of a person, vehicle or luggage

The police officer _____, from _____, acting upon
(name and surname) (name of the organisational unit)
a search warrant, issued by the court No. _____ conducted a search of:

1. Person _____, born on _____, in _____, state _____,
(name, father's name and surname)
with Uniform Civic No. _____, residing in _____, str. _____, No. ____.
The search was conducted in _____.
(street, number and place)

DURING THE SEARCH THE FOLLOWING WAS ESTABLISHED:

2. Vehicle _____, with the registration plates _____, driven by
(type and brand)
_____, born on _____, in _____,
(name, father's name and surname)
with Uniform Civic No. _____, residing in _____, str. _____, No. ____.
The search was conducted in _____.
(street, number and place)

DURING THE SEARCH THE FOLLOWING WAS ESTABLISHED:

3. Luggage, in possession of _____, born on _____, in _____, with
(surname, father's name and name)
Uniform Civic No. _____, residing in _____, str. _____, No. _____.
The search was conducted in _____.
(street, number and place)

DURING THE SEARCH THE FOLLOWING WAS ESTABLISHED:

4. An attorney was informed about the search _____.
(name and surname)

The attorney attended ☐, did not attend ☐ the search.

Attorney: _____

PERSON/OWNER SEARCHED

POLICE OFFICER

MINISTRY OF INTERNAL AFFAIRS

(name of the organisational unit)

No. _____

20

Pursuant to Article 276 (3) of the Code of Criminal Procedure and Article 54 (1) of the Rulebook on the Manner of Performing Police Affairs, the following minutes are prepared

MINUTES
on inspection of a person, vehicle or luggage

1. For person _____, born on _____, in _____, state _____,
(name, father's name and surname)
with Uniform Civic No. _____, residing in _____, str. _____, No. ____.

DURING THE INSPECTION THE FOLLOWING WAS ESTABLISHED:

2. For vehicle _____, with the registration plates _____, driven by
(type and brand)
_____, born on _____, in _____,
(name, father's name and surname)
with Uniform Civic No. _____, residing in _____, str. _____, No. ____.

DURING THE INSPECTION THE FOLLOWING WAS ESTABLISHED:



3. For luggage, in possession of _____, born on _____, in _____, with Uniform Civic No. _____, residing in _____, str. _____, No. _____.
(surname, father's name and name)

DURING THE INSPECTION THE FOLLOWING WAS ESTABLISHED:

The inspection of the person, the vehicle, the luggage was conducted by the police officer _____, from _____, on _____, at _____, because of _____.
(name and surname) (name of the organisational unit) (reasons for conducting the inspection)

POLICE OFFICER

Pursuant to Article 14-a (4) of the Rulebook on the Manner of Conducting Police Affairs the following confirmation is issued

CONFIRMATION
On handover

The police officer _____ from _____
(name and surname) (name of organisational unit)
handed over the person _____, born on _____
in _____, residing at _____ No. _____,
place _____, with ID card No. _____, or passport No. _____,
issued by _____.

The person was handed over to _____, at _____ hours on _____
(place of handover)
_____ (date).

The mental and physical condition of the person at the moment of handover:

(Signs of visible injuries, illness, mental disorders etc.)

The following items are also handed over:

Until no. _____, (in words: _____).

RECEIVED BY

HANDED BY



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