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ANALYTICAL REPORT
ON THE POLICE CONDUCT WHEN DEPRIVING SOMEONE OF LIBERTY AND IN
POLICE DETENTION
AND
ON APPLYING PROTECTION MEASURES (FUNDAMENTAL SAFEGUARDS) FOR
PERSONS DEPRIVED OF THEIR LIBERTY AND IN POLICE DETENTION

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The views and opinions presented herein are those of the experts and should not be taken as to reflect the official position of the European Union and/or the Council of Europe

INTRODUCTION

The Analysis was developed under the auspice of the HF Action “Further enhancing human rights protection for detained and sentenced persons in Montenegro” in support to the Institution of the Protector of Human Rights and Freedoms (hereinafter: the Ombudsman), within its mandate as the National Preventive Mechanism (hereinafter: NPM).

The Action supported the efforts of the NPM to act upon the CPT recommendations following their country visit in 2017 (*“The Committee also considers that it would be desirable for the National Preventive Mechanism (NPM) to explore in greater depth the manner in which persons are treated when apprehended and questioned by police officers”*).¹

For that purpose, a number of research activities in the course of 2019 and 2020 took place.

As part of this research, a survey was designed and conducted in the Remand Prisons in Podgorica and in Bijelo Polje during November and December 2019, which shall be the subject of analysis in Part One of this Report.

A comprehensive Survey was designed with questions concerning the police conduct when depriving someone of liberty and in police detention. The questionnaire was completed by 189 detainees, 17 of whom were women, in the Remand Prisons in Podgorica and in Bijelo Polje. The survey was conducted anonymously, and oral interviews also took place, with 12 respondents (6,34% of the total number of the surveyed respondents) reporting suffered violence. The objective of these interviews was to additionally verify the survey data and possibly set a new path for the research and the situations that need to be prevented in the future.

The target group consisted of detainees who were moved from police detention to remand prisons over the last six months. The detainees of the Remand Prisons in Podgorica and in Bijelo Polje had the opportunity to respond to the Survey voluntarily and anonymously, and thus express their opinions and positions regarding the police conduct when they were deprived of their liberty. According to the information received from the Directorate for Execution of Criminal Sanctions (DECS), the total number of detainees on the day when the survey implementation had commenced was 241, which means that 78.42% of the target group was involved in the survey.

The responses given by the Survey respondents and the allegations provided in the oral interviews were analysed in this Report so as to perceive more precisely the respondents’ opinions and positions regarding the conduct of the police representatives when depriving the citizens of their liberty, which numerous international acts, the Constitution of Montenegro and its legislation have designated to be a particularly important issue in the promotion and protection of human rights in general. This research was preceded by another research undertaken by the Ombudsman in 2015, so some of the results of the previous research will be used for comparison with the 2019 results, as well as the assessments and recommendations

¹ Report to the Government of Montenegro on the visit to Montenegro carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), from 9 to 16 October 2017, published in February 2019. CPT/Inf (2019) 2: „The Committee also considers that it would be desirable for the National Preventive Mechanism (NPM) to explore in greater depth the manner in which persons are treated when apprehended and questioned by police officers“, page 4.

from the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter: CPT), gathered during their visit to Montenegro in October 2017, and published in February 2019, and also the relevant provisions of the European Convention on Human Rights and Fundamental Freedoms,² etc.

Moreover, another research was carried out, in November 2020, regarding the application of fundamental safeguards for persons deprived of their liberty in police detention, which covered 146 respondents. This research was made in the form of an anonymous survey with 20 questions, and again, oral interviews were conducted with 27 respondents. The analyses of results from this research are presented in Part Two of this Report.

For analysing the responses from the survey, the normative method was used, as it relies on the international and national regulation of human rights protection for persons deprived of their liberty, and they are used for defining the content of the legal norms that protect these rights. Furthermore, sociological, descriptive, statistical and comparative methods were used, including comparisons with the recommendations given by the CPT, the Ombudsman, etc.

Part Three of the Report analyses the data submitted at the request from NPM by: Supreme State Prosecutor's Office, Department for Internal Control of the Police, the Bar Association of Montenegro, DECS, the civil society. The information that was sought from them concerned the possible cases of abuse throughout the police detention, and the implementation and outcomes of the procedure, so that this Report may consider also the data obtained from the listed entities.

The purpose of the research is, by making a comprehensive analysis of respondents' answers, to reveal information about the effectiveness and the obligation of respecting the rights of persons deprived of liberty and detained persons, i.e. to contribute to the awareness of extent to which the theory, i.e. the foundation of specific rights on the positive legal and international provisions, and the practice of respecting the rights of persons deprived of liberty, have been mutually harmonised.

At the very end, Recommendations are given for improving the detected irregularities in the police conduct when exercising their authority to deprive someone of liberty. Corresponding annexes have been added to this Report.

All terms in this Report used to refer to physical person in the masculine gender imply the same terms in the feminine gender.

I. SURVEY INTO THE POLICE CONDUCT WHEN DEPRIVING SOMEONE OF LIBERTY AND IN POLICE DETENTION

Before proceeding with completing the Survey, the detained persons were orally familiarised by a representative of the NPM about the content, the objective and the method of completing the survey. The Survey heading displays the Ombudsman's logo, the name – National Preventive

² [European Convention on Human Rights, www.echr.coe.int > documents](http://www.echr.coe.int/documents)

Mechanism for Protection against Torture of Montenegro, as well as the location where the survey is implemented – Remand Prison in Podgorica / Remand Prison in Bijelo Polje. The title of the survey is: “Survey into the Police Conduct when Depriving Someone of Liberty and in Police Detention”. Moreover, the purposes for which the survey results will be used were clearly stated – to analyse the police conduct when depriving someone of liberty and in police detention, as well as that the survey is ANONYMOUS, so that it needs not be signed. Then follows the guidelines that the answers that correspond to their personal experience should be circled, and that it is possible to circle two or more answers.

The survey included 21 questions (Annex I), divided into three sections: General information about the respondents: 1) From which Security Centre or Department have you been brought to the Remand Prison; 2) Which criminal offence have you been charged with; 3) How old are you; 4) Sex; and 5) Have you been in police detention before. These questions are necessary so as to better retrieve the general information and the structure of the detained persons, as well as the place of SC/SD from where they had been brought to the Remand Prisons in Podgorica and in Bijelo Polje.

The questions 6 – 12 concerned the conduct of the police officers when they deprive someone of their liberty, and questions 13 - 21 concern the conduct of the police officers within the police premises.

All answers provided by the respondents in their survey sheets have been individually and statistically processed, and the received results were graphically represented, as well as the answers from the oral interviews. The data processing has allowed for an individual analysis of all the received answers, analysis of responses provided by minor persons and by female persons, when these were in discrepancy with the overall responses, as well as an analysis of the overall results from all respondents, which then revealed the corresponding observations, assessments and recommendations.

a) Analysis of responses concerning the General Information

The section on general information about the respondents contain five questions, and the answers to questions 2-5 should be analysed individually, however, they should also be considered from the aspect of their interrelation, so as to draw an overall conclusion regarding the structure and the characteristics of the detained persons. A special attention was given to the responses provided by minor respondents, since international acts and the legislation require that special attention and care be provided in the treatment of minor persons. Moreover, when certain specificities were identified in the answers provided by the female respondents, compared to the overall results from all the respondents, these cases were individually commented, too.

To the question: From which Security Centre / Security Department have they been brought to the Remand Prison, majority of respondents, 56.08%, replied Podgorica SC, including one minor; 10.58% have been brought from the Nikšić SC; more than 5% have been brought from: the SCs of Budva – 6.88% and Cetinje – 5.29%, including one minor person; followed by the SCs of Bar – 4.7%, Tivat – 3.17% and so one, with the smallest share of Ulcinj SC – 1.06%. When it comes to

female respondents, they have been brought in from nine different SC/SD, majority from Podgorica, six.

To the question on which criminal offence they were charged with, almost one-third responded it was the criminal offence of theft – 27.64%, which reaffirms the fact that the criminal offences against property have been the most frequently committed criminal offences in the recent history. However, 27.64% is a significantly greater percentage compared to the 2017 and 2018 MONSTAT data on the general population,³ where the share of adult persons reported for criminal offences against property in relation to the overall number of reported adult persons was 21.2% and 22.2%. The volume of these criminal offences in our country for an extended period of time has been explained with the rather unstable social and economic situation, insecure social position, addictions, migrations, economic crises, etc., but also with the insufficient prevention, and the unsuccessful resocialisation, which is reflected in the share of habitual offenders, 66.14%, among the respondents in this survey (answers to question number 5).

Next, a large share of the respondents, 18.59%, stated that they have been charged with criminal offences against people's health, most often specifying that the drugs were the reason. We assume that majority of these criminal offences are related to Articles 300 and 301 of the CCMN, unauthorised production, storing and dealing of opiate drugs and enabling the enjoyment of opiate drugs, although the majority of the respondents specified their answers as: drugs or narcotics

Moreover, the share of respondents who have been charged with the criminal offence of murder is extremely high, 11.06%, considering that this is the most serious form of a criminal offence – against the life and the body, that carries long-term imprisonment (for manslaughter, 5 to 10 years for the primary form; for murder – at least 10 years or long-term imprisonment – for the primary form). The specified percentages exceed the 2017 and 2018 MONSTAT data on the general population, where the share of the reported adult persons for criminal offences against the life and the body compared to the overall number of the reported adult persons was 7.6% and 6.9%.

In the structure of the criminal offences that the detained persons have been charged with, it is also evident that there is a high share of 9.55% of the criminal offences of criminal association and various forms of violence, and 4.02% of the criminal offences related to the unlawful possession and use of weapons.

The criminal offences implying the highest and the high level of social risk are prevailing, which carry long-term prison sentences, and if their shares are summed up, they cover almost the half of the respondents, 48.75%. A particularly concerning piece of information is that the two minor persons are included in this group, as one of them is charged with the criminal offence of manslaughter, and the other with the criminal offence of robbery. Out of the 17 female persons who were involved in the survey, an extremely high share includes the ones who have been charged with the gravest criminal offences, five manslaughters, including one murder and one

³ www.monstat.me MONSTAT, Reported Adult Persons for the Criminal Offences against Property, 2017 and 2018

attempted murder; three criminal offences related with narcotics; one violent behaviour and assault of an officer, etc.

In general, the shares of the most severe criminal offences are greater than the ones from two years ago, according to the MONSTAT statistics, so it would be interesting to see the next year's statistics, whether the crime rates will increase and for which criminal offences. According to the survey results, the smaller number of respondents have been detained for criminal offences connected with traffic, abduction, economy, harassment, etc. – all ranging from 0.5% to 4.0%.

Here we would like to note that a small share of the respondents were not quite precise in their answers to some of the questions concerning the type of criminal offences, e.g., “at the request of FR Germany”, or they had cited the CC Article number that did not match with the specified name of the criminal offence, which should be taken as a corrective for the total number and the share of the individual criminal offences within the overall responses of the respondents.

The third question, related to the detained persons' age, was divided in seven categories, the first of which covers the minors, and the last, person aged 60 or more. Exactly these two categories are the least represented in the overall number of respondents – minor persons (two, both aged 17) – 2.21%, and aged 60 or more – 4.76%. The largest share of the respondents, 41.27%, consists of detained persons aged between 30 and 39, whereas 21.16% of the detained persons are aged between 22 and 29, so these two groups make up almost two-thirds of all the respondents, or 62.43%. The same age structure is reflected in the female population; however, the female respondents charge with manslaughter are of relatively older age (one is aged 60 or more; two are aged 50-59; one is aged 40-49; and one is aged 30-39).

Consequently, the overall age structure of the respondents indicates that they are predominantly young people, who have reached their work age, majority of whom are men, and who have been in police detention before.

Out of the 189 surveyed respondents, 172 persons are male, 89%, and 11 are female, 11%.

Inquired about earlier stay in police detention, 66.14% of the respondents reported that they had been placed in police detention before, whereas 33.86% reported that this was their first time to be in detention. If we separate out the answers from the female respondents, 8 out of 17 had been in police detention before. This indicates to the issue of the evidently unsuccessful general and special prevention, especially for the young and middle-aged detainees. The information that two-thirds of the overall respondent population are habitual offenders should be particularly concerning from the aspect of penal policy, resocialisation and other negative influences that contribute for such a high percentage of habitual offenders who repeat the commission of the criminal offences. From the oral interviews with the 12 detainees who had reported to have suffered violence, it is evident that four of them had been in police detention before, two of them claim to have been exposed to severe physical and psychological violence by the police, and two claimed to have been denied the right to know the reasons for their depriving of liberty, to a telephone call and to the presence of a lawyer.

The typical characteristics arising from the respondents' answers to the first group of questions can be summarised as follows: majority of the respondents, 56%, have been brought to the Remand Prison in Podgorica from the Podgorica SC, and almost half of the respondents, 48.75%,

have been charged with criminal offences carrying the highest or the high level of social risk, and almost one-third, 27.64%, have been charged with criminal offences against property. The respondents are predominantly male (including the two minors), young or middle aged, of whom, 66.14% have reported that they had been police detention before. The answers provided by the female respondents reveal the most serious and serious criminal offences, with characteristics of violence, and that they are of relatively older age, so the question may be posed as to whether and to which extent the criminal offences with which they have been charged have been committed in response to the violence they had been exposed to, which has preceded their criminal actions.

b) Analysis of responses concerning the Police Conduct when Depriving Someone of Liberty

Following series of questions concern the police officers' conduct when they deprive someone of their liberty, taking into account their obligations to respect the human rights and freedoms which arise from numerous international documents, laws and by-laws. Policing, in terms of the Law on the Police Administration (LPA), among other things, stipulates that the persons who have committed criminal offences and misdemeanours be detected and brought before the competent authorities; that requirements must be provided for detaining a person, etc. Article 11 specifically stipulates that: *"the execution of police work shall be based on the principles of legality, professionalism, cooperation, proportion in the exercise of powers, efficiency, impartiality, non-discrimination and timeliness"*. Also, police officers are obligated to comply with the standards of police actions, in particular those arising from the obligations regulated by international acts and relating to: the duty to serve to the people, respect the legality and combat the illegality, exercise the human rights, not discriminate while policing, limit and restrain the use of force, prohibit the torture and inhuman and degrading treatment, provide aid to injured persons, the duty to protect the classified and personal data, the duty to reject unlawful orders and confront any form of corruption (Article 14).

The following questions concern the adherence to and application of the specified legal principle and the duty of police representative when depriving someone of liberty. One of the ways to perceive the extent of fulfilment of the listed duties is to consider the experiences of the detained persons reported in their answers to the survey, as well as from the 12 oral interviews conducted with the detained persons (all male) who have revealed that they had suffered one or several forms of violence when they were deprived of their liberty.

To the questions concerning the location of depriving of liberty, the largest share of the respondents reported that they were deprived from their liberty in their homes or out in the public, 32.28% each; then follow the roads, 25.40%; and in someone else's house/apartment, 5.82%. In addition to the provided options, a number of respondents wished to emphasize the circumstances they deemed particularly important to them when they were deprived of their liberty, and so, 3.7% specified that they had surrendered themselves or that their depriving of liberty took place at their workplace, 0.53%.- If we sum up together the cases when the respondents were depriving of their liberty in a public space or on the roads, it turns out that in majority of cases the deprivation of liberty was rather public, 57.68%. From the oral interviews

we could see how much the location of where they had been deprived of their liberty is important for the respondents, not on account of the stressful experience itself, but also on account of the brute and disproportional conduct of the police representatives: *“The special police unit entered the apartment where the respondent lives with his wife, who, at that time, was in the later stages of her pregnancy. I asked them nicely to keep it quiet because of my pregnant wife, but they continued to be arrogant”; “They arrested me in front of my apartment, so that neighbours could watch. They didn’t beat me, but they were telling me I was a drug addict.”*

It is not possible to always legally define the location of depriving of liberty, as it depends on the situations and the possibilities for operational actions to be taken by police officers when they deprive someone of liberty, however, it is necessary that they safeguard the general policing principles, which are based on the principles of: legality, professionalism, cooperation, proportionality in exercise of authority, non-discrimination, etc. (Article 11 of the LPA). The answers provided by the respondents to this question should be considered in correlation with the following answers, which relate to the psychological experience of the situation of depriving of liberty, where it becomes evident that the location and the method of depriving of liberty significantly impact the level of stress in persons deprived of liberty.

The question directly targeting the application of LPA provisions concerning the arrest is the time of the day when someone is deprived of their liberty, to which the survey allowed for five options: early in the morning; during the day; before midnight; after midnight; and at dawn. Majority of respondents replied that they had been deprived of their liberty during the day, 44.97%; then follow the ones who have been deprived of their liberty early in the morning, 23.28%; before midnight, 15.87%; after midnight, 10.50%; with the smallest share of the ones who reported that they have been deprived of their liberty at dawn, 5.29%. Pursuant to Article 52a Paragraph 2 of LPA, a person may be arrested between 6 hrs and 22 hrs, so if we consider the responses of being arrested during the day, together with the responses of being arrested early in the morning (the question was not precise), it turns out that 68.25% of the respondents have been arrested in compliance with said Article of the LPA. The next paragraph of the same article stipulates that a person may be arrested outside the 6 hrs – 22 hrs timeframe, when the arrest is necessary for the purposes of policing work that does not allow for any delays. So, it can be derived from these responses that this derogation was applied to almost one-third, 31.25%, of the respondents when they were deprived of their liberty. Also, it should be taken into consideration that majority of the respondents have replied that they were deprived of liberty at home or in the public, and the examples from the oral interviews indicate a high level of stress of persons deprived of liberty, in the presence of family members, pregnant women, small children, especially during the reckless and brute conduct of the police representatives when depriving someone of liberty or searching their apartment. In addition to what has already been specified, let us also point out to the obligation contained in Article 81 Paragraph 7: *“The search of an apartment or of a person should be carried out carefully, thereby respecting the human dignity and the right to privacy, without unnecessarily disturbing the house order or upsetting the citizens”*.⁴

⁴ The Criminal Procedure Code, “The Official Gazette of the Republic of Montenegro” No. 70/2003, 13/2004 – correction, and 47/2006 and “The Official Gazette of Montenegro” No. 40/2008, 25/2010, 32/2011, 64/2011 – another law, 40/2013, 56/2013 – correction, 14/2015, 42/2015, 58/2015 – another law, 44/2017 and 49/2018.

To the question concerning the obligation of the police officer/sto communicate the reasons for deprivation of liberty and the manner of deprivation, the majority of respondents, 49.21%, have reported that the police had not informed them of the reasons, while 7.41% have reported that they could not remember. Furthermore, the affirmative answers provided by the respondents, 34.92%, reveal that they had been orally informed, or, to a lesser extent, by providing the order for depriving of liberty, 8.47%. Almost half of the surveyed respondents reported that the police, when depriving them of liberty, had not informed them of the reasons, and if we add to this the respondents who could not remember if they were informed about the reasons for their depriving of liberty, we reach an extremely high percentage, 57%, according to the respondents' statements regarding the failure of the police to grant them their rights referred to in Article 5 of the LCP⁵: *"The person who is deprived of liberty must be immediately informed by the competent state authority, in their own language or the language they understand, about the reasons of being deprived of liberty, and at the same time be familiarised that they are not obliged to state anything..."*, as well as in Article 24 of the LPA, Requirements for Exercising Police Powers: *"The person in respect of whom the police powers are exercised shall have the right to be familiarised with the reasons for undertaking the police powers, to indicate the circumstances they find to be important in relation to this, ..., when the circumstances allow so and if this does not endanger the exercise of the police powers."* Furthermore, Article 52c of the LPA reads – *"The police officer shall be obliged to inform the person that they are arresting about the reasons for undertaking such an action, before the person is arrested..."*.

So, almost half of the respondents reported that, when they have been deprived of their liberty, the police have not informed them of the reasons for that, which has been verified in most of the statements given in the oral interviews, in which they claimed that they had not been informed about the reasons for their depriving of liberty: *"When I asked them, they did not tell me why they were arresting me. They just told me: 'You'll find out.'; "It was not explained to him why he was arrested, no one took a statement from him, they were rude and aggressive."; "The barged into my house, and I asked them: 'What's this, what's going on.' They said: 'You just need to give a small statement'"; "They just picked me up while I was sleeping, I wasn't aware what was happening, and why they were taking me away."* In the responses of the 17 female respondents to the same question, an even greater share of negative responses can be observed compared to the overall number of the surveyed. Namely, only one female respondent answered that she was given the order, three said they were orally informed, but the others replied: "N", eight; or, "I don't remember", five.

If we compare the abovementioned percentage of 49.21% of the respondents, who have declared that the police had not informed them of the reasons why they were depriving them of liberty, with the results from the responses to the same question from the "Research into the Respect of the Rights of Persons Deprived of Liberty in the Holding Cells of the Police Administration", which the Ombudsman had conducted four years before, it can be seen that this share was significantly lower and amounted to 15.5%.⁶ This comparison raises the question why, four year later, we have a significantly greater rate of utilisation of the derogation from the

⁵ Ibid, Article 5.

⁶ 2015 Work Report of the Protector of Human Rights and Freedoms, page 66.

application of the legal obligation of the police to inform the people of the reasons for their depriving of liberty, and what the reasons are for this conduct of the police, whether it is the lack of knowledge of the legal regulations or whether this failure to inform about the reasons of depriving of liberty can be correlated with the later cases of unlawful police conduct, that involved denial of the rights of the persons deprived of liberty, failure of the police officers to identify themselves, examples of abuse, etc.

To the question of “Whether the official persons who had deprived you of your liberty wore uniforms that clearly showed their names, surnames or number (tags containing these designations)”, the respondents’ answers indicate that 49.74% of the persons deprived of liberty have reported that the police officers wore no noticeable forms of identification; 31.75% have reported that the police officers have been wearing identifications; while 18.52% of the surveyed respondents have said that they did not remember. So, as was the case with the responses to the previous questions, which concerned the obligation of communicating the reasons for depriving someone of their liberty, with this question, too, almost half of the respondents have reported that the police powers wore no noticeable forms of identification, which constitutes an obligation when police officers exercise their rights, with stipulated exceptions, according to Article 24 Paragraph 5 of the LPA: *“The person in respect of whom the police powers are exercised shall have the right to be familiarised with... the identity of the police officer, ..., when the circumstances allow so and if this does not endanger the exercise of the police powers.”* Also relevant is the Article 29 of the same Law, Identification and Introduction, *“The police officer, when policing in plainclothes, shall be obliged, before commencing the exercise of police powers, to introduce themselves by showing the official badge and the official identity card. The police officer in uniform shall be obliged, before commencing the exercise of police powers, to introduce themselves by showing the official badge and official identity card, at the request of the person in respect of whom the police powers are exercised.*

By way of derogation, the police officer shall not introduce themselves in the way referred to in Paragraphs 1 and 2 of this Article if the circumstances of the exercise of police powers indicate that this might hinder the achievement of its objective. In this case, the police officer shall, in the course of exercising the police powers, warn the citizen with the word: “Police”.

In addition to the specified legal provisions, a by-law was introduced that defines more closely the uniform and the identification of the police officers, as early as in 2015, which was improved on a number of occasions. However, it becomes evident from the statements of half of the respondents that, when they were being deprived of their liberty, it was not possible to identify the police officers. It may be concluded that the Decree on Uniforms, Professional Designations and Arms of the Police Officers⁷ is not enforced in many cases, and neither are the recommendations from the Ombudsman⁸ and CPT⁹, who had noticed the specified failures even before. Consequently, the failure to enforce the specified Decree and recommendations has impacted in a way that the desired result to be able to identify, prosecute and punish the police

⁷ “The Official Gazette of Montenegro” No. 20/15 dated 24.04.2015; 73/17 dated 03.11.2017 and 7/18 dated 05.02.2018.

⁸ <http://www.ombudsman.co.me/docs/488-15.pdf>, page 19.

⁹ CPT/Inf(2010)3 para 27 and CPT/Inf(2014)16 para 21.

officers overstepping their authority was not achieved, which was merely reaffirmed in the respondents' answers in the next section of the survey.

If we analyse separately the answers of the 17 female respondents to the same questions, only two have answered affirmatively, six have answered negatively, while nine could not remember whether the official persons who have deprived them of their liberty have been wearing designation tags on their uniforms.

The responses of 49.74% of persons deprived of liberty, who have reported that the police officers wore no noticeable forms of identification on their uniforms, speak about the broad application of the derogation from this obligation, referred to in Article 29 Paragraph 1 of the LPA, which is why we would like to recall the assessment of the CPT,¹⁰ which: *"...has noted the new Rulebook adopted by the MOI and wishes to receive a confirmation from the Montenegrin authorities that the police intervention forces (including the members of SATU) now wear designations with their names/identification numbers on their uniforms during their operations"*. It is certain that two years following the CPT visit, the confirmation of the consistent application of the specified recommendation cannot be drawn as a conclusion arising from the answers given by the respondents in this survey. Namely, the lack of enforcement of the legal provisions stipulated in the Law and in the Rulebook, as well as the mentioned recommendation received from the CPT, has, in fact, created a twofold consequence: violation of the rights of persons deprived of liberty and failure to prosecute and punish the perpetrators of serious criminal offences by the police representatives. The deliberate evasion of wearing the designation tags with names/identification numbers on uniforms indicates to an attempt to obstruct the possible investigations and to the intention not to punish the police representatives who use physical or verbal violence when they act in an official capacity.

To the question regarding physical or verbal abuse by the police officers when you were deprived of your liberty, 54.4% have reported that they had suffered a form of physical or verbal abuse (by applying excessive physical force, hitting them with non-standard objects, delivering electroshocks with handheld electroshock devices, or with offensive and degrading comments).

If we consider separately the answers to this question given by the female detainees, only one respondent has reported that the use of excessive physical force had taken place; six have reported that they had been hit with non-standard objects; three have reported that they had received offensive and degrading comments; three have reported that there had been no physical or verbal abuse, however, the police officers had been extremely brute; six have reported that there had been no physical or verbal abuse, of whom, three respondents have been charged with various forms of manslaughter, two could not remember, and one has been charged with an attempted murder. From the answers provided by the female respondents, it can be concluded that the fewest reports of physical and verbal abuse have happened during the depriving of liberty of the female respondents who had been charged with the gravest forms of criminal offences.

¹⁰ Report to the Government of Montenegro on the visit to Montenegro carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), from 9 to 16 October 2017, published in February 2019. CPT/Inf (2019) page 19.

Moreover, during the oral interviews, different forms and degrees of torture could be identified, by way of physical and verbal abuse, as well as discriminatory and degrading actions, even when minor persons were concerned (slapping them, hitting them with the shields, cursing their 'Gypsy mothers'). From the oral interviews, we would like to single out the response of a detainee, who reported rather different experiences when he was being deprived of liberty. He pointed out to the highly professional behaviour and thoughtful conduct in the presence of his wife and baby by the Special Police Team: *"I cannot compare their professionalism with anything... everything was by the book... I really have to tip my hat to those guys, you could see that they were all professionals, serious and trained. They entered the apartment as normal people, without shouting and demonstrating their power... They searched everything, but lightly, they searched every detail, but without breaking anything or making a noise... they omitted nothing, and yet, they created no tension."* The same detainee emphasised the quite opposite experience when he was deprived of liberty by the Special Police Unit: *"They barged into the apartment and shouted like crazy, the whole building was echoing... later on, the residents of the building started a petition to throw us out... They turned everything upside down and they broke everything around the house, without any reason to break or disturb."* Another detainee reported: *"I was arrested by the intervention unit, they hit me in my stomach and in the area of my crotch, my mouth was filled with blood. The officer of the intervention unit hit me with his boot."*

More than half of the respondents answered that physical and verbal abuse were applied by the police officers in the process, which indicates the high level of disrespect of the international standards and the legally stipulated duties. It is not possible to speak about improvements of the situation, the need for which was established by CPT in 2017: *"The Committee concludes that persons deprived of their liberty in Montenegro still run an appreciable risk of being ill-treated by the police... such action has clearly still not been effective in eradicating ill-treatment. In short, the culture of police ill-treatment has still not been effectively curbed. ... The Montenegrin authorities must recognise that the existence of ill-treatment by police officers is a fact, that it is not the result of a few rogue officers but appears to be an accepted practice within the current police culture, notably among crime inspectors."*

The next question concerned: The transport of persons deprived of liberty – have the persons been restrained and whether the police used physical force during the transport,¹¹ and so, 48.68% of the respondents have reported that they have been restrained, but that the police officers acted correctly; while 13.76% have reported that they have been restrained and they have suffered physical violence; and 9.52% have reported that they have been restrained and that they have been verbally abused. The overall share of the ones who have reported that they have not been restrained, 28.04% (I was not restrained and they acted correctly – 24.34%; I was not restrained, but they offended me verbally and acted brutally – 3.17%; I was not restrained, but they beat me – 0.53%). If we sum up the answers of those respondents who have been restrained, 48.68%, and who claim that the police officers have acted correctly, with the 28.04% of those who claim that they have not been restrained and that the police officers have acted

¹¹ Law on Internal Affairs. "The Official Gazette of Montenegro" No. 44/2012; 36/2013; 1/2015 and 87/2018, Article 60, „Means of restraint may be used for: 1) preventing the resistance of a person or repelling the attack aimed at the police officer; 2) preventing the escape of a person; 3) precluding self-harm or the harming of another person. The use of means of restraint shall, as a rule, mean the restraining of person's hands behind their back."

correctly, we reach the share of 76.72%, which is a much more favourable situation compared to the previous two questions. Yet, the share of 28% of the respondents, i.e. 17% of those who have suffered physical violence and 10% of those who have suffered verbal violence, cannot be neglected.

If we consider separately the answers provided by the female respondents, 8 out of 17 have been restrained, but have been treated correctly; 5 have not been restrained; 3 have not been restrained, but they have been verbally offended and treated brutally; 1 claims to have been restrained and the physical force has been used against her.

In the context of the answers provided by the respondents, we would like to point out to the provisions 57-59, LPA – The Use of the Means of Coercion, which also stipulate the use of the physical force and the means of restraint: *“The means referred to in Paragraph 1 of this Article shall be used when this is necessary for the protection of the security of people, repelling an attack and preventing the escape, if the official task cannot be achieved by way of issuing a warning or giving an order. The police officer shall use coercive means only if they cannot complete their task otherwise, in proportion to the danger that threatens the legally protected goods and values, or the gravity of action which is prevented or suppressed, and in a restrained manner. The police officer shall always use the mildest form of coercive means that guarantees success, proportionally to the reason for using it and in a manner that the official task can be completed without unnecessary adverse consequences.”*

The reporting, control and liability in using the coercive means has been regulated in Article 59: *“The police officers shall submit a written report on the use of coercive means to the superior police officer, as soon as possible, and not later than 24 hours following the use of the coercive means... Legitimacy of the use of the coercive means shall be assessed by the director or the person authorised by them. ... The police officer who had illegitimately used or ordered the illegitimate use of the coercive means shall be held personally liable for the illegitimate use of the coercive means.”*

For the purposes of illustration, we will give the example of the written Guidance on the Use of Handcuffs,¹² that is used by the United Kingdom Police, and which specifies in detail the rules and methods for using the coercive means, thereby insisting on the objective use of the means of restraint and on the principle of approval by the superiors of the use of these means, however, at the same time, it emphasises the importance of having a strict control over the use of the coercive means, especially by the superior managing staff. Considering the importance of using this form of coercive means, as well as the control of legitimacy of their use, the possibility should be considered to develop a kind of a handbook or a guidebook that would become a part of the standard training for the police officers who apply the coercive means, but also for their superiors, who are obliged to control the use of the coercive means according to our legislation, too.

Out of the overall answers provided by the respondents, it is noticeable that 76.72% have answered that they had not experienced violence, regardless of whether they have been

¹² ACPO, Association of Chief of Police Officer of England, Wales and Norden Ireland, Guidance on the use of Handcuffs, 04/11/10.

restrained or not during the transport, however, we cannot disregard the answers by the remaining respondents, who have claimed to have allegedly suffered physical and verbal violence. Moreover, this problem was detected by CPT, too, during their 2017 visit, which is why: *“The CPT recommends that the Montenegrin authorities ensure that all transportation of detained persons in a police vehicle is carried out in a humane, secure and safe manner.”*¹³

To be able to comment this result more comprehensively, it would be interesting to see the data about the number of written reports on the use of coercive means during transport, e.g., Podgorica SC for November and December 2019, whether they have been abused, whether and what kind of procedure was initiated, the outcome of those procedures, etc. The police is obliged to keep records of the use of coercive means, Article 44 of the LPA.

The psychological experience of the situations of depriving of liberty was the last question in this group, for which a scale of responses was offered, ranging from “not particularly stressful” to “degrading”. This question concerns the personal experience of each of the respondents, and it expresses the subjective attitude towards the situation of becoming deprived of their liberty. However, although subjective, we find the respondents’ attitudes very significant for assessing the legitimacy of the police conduct when depriving of liberty these persons, to whom the presumption of innocence applies, not only within this period, rather, until the finality of the verdict, if a court proceeding is initiated at all, regardless of the type and the nature of the committed criminal offence.

The largest share of the respondents in the survey, 48.5%, have reported that the depriving of liberty was very sudden and stressful for them, and that they had not expected this to happen to them. Those who have reported that the depriving of liberty was degrading for them, because they have been arrested in front of their families or in a public space account for 17.8%. Those who have reported that the depriving of liberty was expected for them and not stressful account for 2.0%. If we consider separately the answers provided by the female respondents, it is evident that 8 out of 17 have reported that the depriving of liberty has been unexpected and stressful for them, while 5 have reported that the depriving of liberty was expected for them, yet stressful. This group also includes the 3 female respondents who have been charged with the different forms of the criminal offence of manslaughter, while the remaining 2 have selected the option: “degrading, the arrest took place in front of the family, or in a public space” or: “I don’t know”.

Almost half of the respondents have reported that the depriving of liberty has been sudden and very stressful for them, and a relatively small share of all the respondents, 17.8%, and one female respondent among them, have answered that the depriving of liberty has been degrading for them, because they have been arrested in front of their families or in a public space. Almost all oral interviews provide details as to the experience of stress and the feeling of humiliation, on account of the violent police conduct (physical or verbal) during the depriving of liberty of the respondents.

¹³ Report to the Government of Montenegro on the visit to Montenegro carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), from 9 to 16 October 2017, published in February 2019. CPT/Inf (2019) page 24.

It is well known that the depriving of liberty is, in the nature of things, a stressful, personal and subjective experience for any person deprived of their liberty, which is why international documents and our legislation provide for a number of principles and procedures that need to be implemented in a given situation, especially when minor and female persons are concerned. This is why, Article 14 of the LPA has stipulated that police officers shall comply with standards of police action, in particular those arising from the duties regulated by international regulations and relating to the duty of serving people, respecting legality and combating illegality, exercising human rights, non-discrimination while policing, limitation and restraint in the use of force, prohibition of torture and inhuman and degrading treatments, etc. However, we believe that the two-thirds of the answers related to the psychological experience of the situation of becoming deprived of liberty (very stressful or degrading) have derived from the answers to the previous questions in this survey: the time and the place of depriving of liberty, depriving of liberty without communicating the reasons for it, not wearing any form of identification on the uniforms, the using of restraint, physical and verbal abuse, etc.

From the analysis of the respondents' answers concerning the police officers' conduct when they deprive someone of their liberty (seven questions), it can be concluded that half or more of the respondents, with majority of their answers (reasons for depriving of liberty; designations on uniforms; physical and verbal abuse; very stressful experience of the depriving of liberty) indicate to the failures in the application of the most important principles for the treatment of persons deprived of their liberty: human conduct, procedures founded in the provisions of the law and the international acts, prohibition of discrimination, etc. These assessments have particularly derived from the analysis of the oral interviews, which speak of numerous unlawful actions taken by the police when depriving someone of their liberty, leading to the conclusion that acting against abuse requires not only the adoption of corresponding legal norms, rather, taking measures that will ensure their effective enforcement. When analysing the responses, some of the views of the 2 minor persons and the 17 female respondents, were worth singling out, as it is necessary to take their specificities into account and the caution that must be urged when vulnerable categories are deprived of their liberty, which has been recognised and recommended in numerous international documents. In the cases of depriving the minors of their liberty, the standards stipulated in numerous international documents, and also in the national regulations, should be strictly applied.¹⁴ Regarding the rights and the treatment of women deprived of their liberty, the specific needs of women should be taken into account, considering their biological distinction, and also the protection of motherhood is particularly important, as it is quite possible for the women deprived of liberty to be pregnant, to have recently given birth, or to be mothers of small children.

¹⁴ These are of relevance: The United Nations Convention on the Rights of the Child, 1989; The United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 1985 (The Beijing Rules); The United Nations Rules for the Protection of Juveniles Deprived of their Liberty; 1990; The United Nations Guidelines for the Prevention of Juvenile Delinquency, 1990 (The Riyadh Guidelines); CPT Standards; whereas, the most relevant domestic regulations in this area include: The Law on the Treatment of Minor Persons in the Criminal Procedure, "The Official Gazette of Montenegro" No. 64/2011 and 1/201 and the bylaws; The Law on Internal Affairs, "The Official Gazette of Montenegro" No. 44/2012; 36/2013; 1/2015 and 87/2018.

If we compare the answers from the respondents' experiences in this section of the survey and the oral interviews with the 2017 CPT (CPT/Inf (2019) 2, par. 15) assessments and recommendations, we believe that these recommendations have not been implemented to a significant extent, so it is necessary to proceed with their more efficient implementation as soon as possible: *“It is incumbent on the Montenegrin authorities to take the necessary measures to end ill-treatment by law enforcement officials through a multifaceted approach, comprising: a competitive recruitment process of police officers based upon strict selection criteria; an educational training course for all new recruits with a particular emphasis on advanced methods of crime investigation; the accountability of senior officers for their line management responsibilities; the application of appropriate sanctions (criminal and disciplinary) for the perpetrators of ill-treatment and for those who fail to prevent it; and the existence of effective and independent procedures for examining complaints and other relevant information regarding alleged ill-treatment by police officers.”*¹⁵

c) Analyses of responses concerning the police officers' conduct in the police premises

The questions in the last section of the survey (13-20) concerned the police officers' conduct in the police premises, for which numerous and strict obligations exist regarding the adherence to many principles stipulated in international documents, in the Constitution, in the laws and in by-laws. To the question: Have your handcuffs been removed immediately upon arrival to the police station, majority of the respondents, 39.15%, have reported that their handcuffs have not been removed immediately upon arrival to the police station; while 35.98% have reported that their handcuffs have been removed immediately; and 24.87% have reported that they had not been restrained. In the oral interviews, only 2 respondents spoke about this issue, however, they mention the handcuffs in relation to the next questions that concern the questioning by the police, accompanied by verbal and physical abuse. From the answers provided, it derives that the principle of proportionality (Article 26) and the principle of limited and restrained use of the coercive means (Article 14, 57) of the LPA regarding the use of the police powers, have not been applied in the corresponding situation in almost 40% of the cases. However, if we consider separately the answers provided by the female respondents, it is evident that two-thirds of them have been treated with the due adherence to the specified principles, as 11 out of 17 have responded that their handcuffs have been removed immediately upon arrival to the police station, while 6 have responded that they had not been restrained.

As for the official premises where the person has been brought to following their depriving of liberty, the results from the answers to this question indicate that most often this was some sort of an office – 79.89%; 17.46% have reported that they had been brought in a detention room (holding cell); while 2.65% could not remember. If we consider separately the answers provided by the female respondents, 7 have responded that they were brought to an office; 6 have been brought to an interrogation cell (3 of the female respondents have circled both answers, specifying that they were first brought to an office, and then moved to a cell); 5 have responded that they have been brought to an interrogations room; and 2 of the female respondents have answered that they do not know.

¹⁵ [CPT periodic visit report](#)

From the oral interviews with the respondents, examples could be discerned of unlawful conduct of the police officers in the official premises of the police, following the persons' depriving of liberty, as well as descriptions of inadequate rooms and the appalling conditions in there. So, one of the minor persons has reported that he has spent: *"6 hours in the Bar Police Station, while he spent 2 days in the so-called 'concrete box'. His family was not informed, he was not allowed to contact his parents and inform them. According to his allegations, his mother learned that he had been arrested from the prosecutor, who had summoned her to come to the Prosecutor's Office."* Next, one of the respondents specified: *"They took me out of the police vehicle to some sort of an office, where I waited several hours, without handcuffs. I didn't have the slightest clue what was going on... Then they came, they handcuffed me and took me away... I wasn't taken to the prosecutor, they took me to the 'concrete box'."* Yet another of the respondent stated: *"...They placed me inside the 'concrete box', that had no toilet. I had to go to the toilet in the washing sink, the cell got flooded over the night, some 30 cm of water covered the floor, and I stayed in this cell for around 40 hours, in that water. I asked them to move me to another cell, but this never happened. The next day, around 22 hrs, I was brought before the prosecutor for interrogation."* The allegations from the oral interviews speak about violations of the rights of persons deprived of liberty by way of inhuman and degrading police conduct in the official premises, and what is particularly concerning is the inadmissible treatment of the minor person, whose statement reveals a series of failures or violations of rights that had to be exercised when the minor person was being deprived of his liberty (article 30 of the LPA). Moreover, MOI should adapt the holding cells for persons deprived of liberty and the by-law regulating this matter with the CPT standards, which was also a recommendation given to the Ministry on a number of occasions by the Ombudsman.¹⁶

To the question: Who was the official person that the person deprived of liberty talked to upon arriving to the official premises, majority of the respondents have answered that they have talked to the plainclothes inspector, 79.08%; with a uniformed officer, 13.78%; 1.53% have first spoken to the prosecutor; and 5.61% could not remember. If we consider separately the answers of the female respondents, the share from the general sample is confirmed, namely, 12 female respondents have answered that they have first spoken to a plainclothes inspector, 2 have spoken to a uniformed office; and 3 could not remember who they have spoken to first (2 of them are charged with the criminal offence of manslaughter). This part of the question concerns the provision of Article 28 of the LPA: *"The policing activities, which nature and implementation conditions require so, shall be carried out by uniformed police officers. A police officer may conduct certain police activities in plainclothes."*

The answers to this question should be taken into account when analysing the respondents' answers to the next two questions, as they are directly correlated. Namely, 80% of the respondents have reported that they have spoken with plainclothes inspectors after they had been brought to the official premises, so majority of answers related to the introduction and the conduct of the police officers during the interrogation in the official premises concern them.

To the question: Have the officers introduced themselves, almost two-thirds of the

¹⁶ Group of authors, Institut Alternativa, Assessment of the Integrity of the Police in Montenegro, 2016, page 22.

respondents, 62.96%, have answered negatively; 26.98% have answered that the officers have introduced themselves; and even 10.05% of the respondents could not remember. If we consider separately the answers provided by the female respondents, an even greater share has answered that the officers have not introduced themselves, 12; 5 could not remember; not a single answer indicates that the police officers have introduced themselves right after their depriving of liberty, although it is evident from the previous answer that majority of the respondents have spoken to a plainclothes inspector.

Identification and introduction have been regulated in Article 29 of the LPA: *“The police officer, when policing in plainclothes, shall be obliged, before commencing the exercise of police powers, to introduce themselves by showing the official badge and the official identity card. The police officer in uniform shall be obliged, before commencing the exercise of police powers, to introduce themselves by showing the official badge and official identity card, at the request of the person in respect of whom the police powers are exercised. By way of derogation, the police officer shall not introduce themselves in the way referred to in Paragraphs 1 and 2 of this Article if the circumstances of the exercise of police powers indicate that this might hinder the achievement of its objective.”* We believe that the stipulated derogation should not be used in situations where a person has been deprived of their liberty and brought to a SC/SD, especially not in such a large share of cases. This is evident, if we consider from the answers to the previous question that almost 80% of the respondents has spoken to a plainclothes inspector. So, when they were deprived of their liberty, 50% of the respondents have reported that the police representatives wore no identifying designations on their uniform; and when they were brought in SC/SD, 70% of the officers (80% of whom were plainclothes inspector) have not introduced themselves either, meaning that they have not adhered to the cited provisions of the LPA.

We believe that the answers to the questions why the police representatives wear no designations on their uniforms when depriving someone of their liberty and why they do not introduce themselves to the persons they are questioning in SC/SD should be sought in the evasion of the liability for unlawful conduct, which is merely reaffirmed in the respondents’ answers to the next question in this survey. In fact, the specified conduct of failing to adhere to the legal obligations when depriving someone of their liberty and interrogating them in the official premises by the police representatives (uniformed and plainclothes inspector) indicate to the conclusion that such a conduct prevents or aggravates the prosecution and the punishment of the cases of physical or psychological abuse. The unlawful police conduct when they deprive someone of their liberty and during the interrogation of the persons who had been brought to SC/SD has been the subject of criticism and recommendations for improvement for a long time now by the international organisation,¹⁷ the national institutions, the non-governmental sector and the public, and it is advisable to immediately take appropriate actions so that evading the “formality” of both uniformed and plainclothes police officers introducing themselves can stop being the norm in the treatment of person deprived of their liberty.

To the question concerning the police officers’ conduct when interrogating someone in the official premises, the overall share of the ones who have reported that they have been abused

¹⁷ CPT; the Ombudsman; the Council for Civil Control; Institut Alternativa, other NGOs, etc.

during the interrogation by the police officers amounts to 70.37% (I was verbally offended and humiliated, 17,85%; they intimidated and threatened me, 20,54%; they slapped me, 11,78%; they punched me, 10,44%; in another way, 5,05%). The share of the ones who have reported that they have not been abused during the interrogation is 28,96%; while 0.67% have reported that they could not remember. If we consider separately the answers provided by the female respondents, majority have answered: “yes, they intimidated me” – 8; and along with this response, 3 more have answered: “yes, they offended me”; and 1: “yes, they slapped me”. One female respondents each has replied: “yes, they punched me”; “yes, in another way – they put a gun against my neck”; “no, I don’t remember”; while in 6 cases the female respondents have replied negatively. From the answers provided by the female respondents it can be concluded that the same methods of physical and verbal abuse were used against them, too, the same as with the male respondent, and the particularly cruel was the treatment of the two minor persons; one of the has reported: “I was hit with a baton”, while the other was: “offended/humiliated; intimidated; slapped; kicked with a fist and foot”.

The respondents’ statements that in 70% of the cases they have been abused during the interrogation by the police officers are alarming, and do not contribute for the expected improvements, which were required in the previous recommendations of the CPT, the Ombudsman and other oversight bodies. The statements given by the respondents in their oral interviews also support this assessment, as they are abundant with examples of an unlawful treatment of the persons deprived of their liberty by a police representative during their interrogation in the official premises. So, one of the minor person has reported: *“In the police station I did not want to accept the criminal offence, so they started slapping me. They pushed me against the wall and 4-5 inspector surrounded me and slapped me and kicked me with a shield. They said they would beat me for 24 hours if I didn’t confess.”* Another respondent has reported: *“Every time I gave a negative answer to their question, they would slap me, strangle me, and threaten me that I would never see my family again if I dared report them to someone for the injuries.”* Yet another of the respondent stated: *“They took him to a police station and started kicking him, 4-5 of them, in plainclothes. I was kicked by a short, bearded person, in my stomach, on my chest, I was slapped, on body parts that leave no traces.”* He also reports a verbal abuse: *“Monkey, imbecile, fool”* and intimidation by prison and the punishment he was going to receive: *“You’ll serve 5 years for this”, also, in the police station, they threatened me with electric devices.”* The next respondent has reported: *“I sought to tell someone about the 4 teeth (injury), but no one listened.”*

The police officers’ conduct during interrogation in the official premises has been regulated with the LCP, in its Article 11: *“Threatening or inflicting violence to the suspects, convicts and other persons involved in the procedure shall be prohibited...”*, Article 100, Paragraph 7: *“The accused shall be interrogated with full respect for their person”*, etc.

Insisting to confessing the criminal offence: two-thirds of the persons deprived of liberty have reported that the police officers have insisted that they confess to the criminal offence, i.e. 66.6%; whereas 31.2% have stated that this was not the case. A similar situation is perceived if we consider separately the answers provided by the female respondents, 10 of whom have replied that the police officers have insisted on them recognising the criminal offence that they had been charged with, while 7 have reported that there was no insisting on confessing the

criminal offence. From the oral interviews we can perceive more closely the unlawful actions and activities, which was indicated by two-thirds of the respondents: *“They hit me with their fists, because I refused to confess. They stopped for a moment when I had grabbed the gun of one of the police officers and placed it against my head, saying that I was going to kill myself and that they will have to explain to the reporters how a person got to be killed in a police station.”* The next respondent has reported: *“...they said that I have to confess to the offence, otherwise, they were going to take me to the lake and to all sorts of things to me. When I came to the Prosecutor’s Office, the plainclothes inspectors continued with their threats. Every time I gave a negative answer to their question, they would slap me, strangle me, and threaten me that I would never see my family again if I dared report them to someone for the injuries. They forced me to learn the answers to the questions that the prosecutor was supposed to ask me later... they wanted to extort confession from me. I kept refusing, they kept slapping me. They took down my underwear and waved with their batons.”*

The aforementioned information that two-thirds of the respondents have reported that police officers have insisted on their confessing of the criminal offence, as well as the statements from the oral interviews, indicate that the legal obligations related to the prohibition of the use of violence and of extorting a confession, as well as the corresponding CPT assessments and recommendations, have not been respected, regardless of the fact that the evidence of confession obtained unlawfully cannot be taken into account during a possible criminal procedure. Namely, the police officers’ conduct during the interrogation in official premises has been founded on the international standards and has been regulated with the LCP, Article 11: *“Threatening or inflicting violence to the suspects, convicts and other persons involved in the procedure shall be prohibited, as well as extorting confession or other statements from those persons”*; Article 100, Paragraph 7: *“The accused shall be interrogated with full respect for their person”*; Paragraph 8: *“No force, threats, deceptions, extortions, harassment or other means referred to in Article 154 Paragraph 5 of this Code shall be used against the accused so as to obtain their statement, confession or facts that could be used against them as evidence”*. Article 101, Paragraph 1 and 2: *“The interrogation must not rely on the assumption that the accused had confessed to something they had not confessed, nor questions should be asked that already contain what needs to be answered to them. If the later statements given by the accused differ from the earlier ones, and especially if the accused withdraws their confession, the court shall invite them to provide the reasons why they gave different statements, that is, why the withdrew their confession.”*

The prohibition of extorting the confession by the police, because of its significance for the protection of the rights of persons deprived of liberty, in addition to being regulated with a law, has also been the subject of the corresponding OSCE document, where it has been specified: *“Obtaining the confession or any other statement by using force, torture or under the threat of their use, or by using drugs, must be prohibited and punishable”*.¹⁸ Recognising the importance of the prohibition of extorting a confession and other statements during the procedure, on account of the rights of the persons deprived of liberty, but also for the successful implementation of the procedure, the Council of Europe, in 2018, published the a Practitioner’s

¹⁸ Guidebook on Democratic Policing, Senior Police Adviser to the OSCE Secretary General.

Guide on Investigative Interviewing:¹⁹“While the purpose of each category of interview may vary somewhat, all interviews share the same key objective of amassing accurate, dependable and comprehensive information which will help to bring the true offender to justice. ... Other considerations which should be foremost in the investigator’s mind when interviewing, are the special, additional steps and safeguards which must be taken when dealing with vulnerable, disadvantaged and juvenile interviewees.”

The UN have also developed international guidelines on investigative interviewing and the related protection measures, together with many international bodies: “The purpose of these guidelines is to reduce the risk of ill-treatment and coercion, that persons are faced with during questioning by the police and in the first few hours of detention. The provided guidelines should offer practical instructions as to conducting efficient, ethical and non-coercive interviews. At the same time, they will promote the efficient application of the legal and procedural protection measures concerning the interrogation.”²⁰

From the last CPT Report, we would like to underline the segment of the situation analysis that related to the insisting on obtaining confessions from the persons deprived of liberty: “The majority of the allegations referred to ill-treatment inflicted at the time of questioning by the police with a view to extracting a confession or obtaining information. The alleged physical ill-treatment consisted of slaps, punches, kicks and baton blows (including to the head), strikes with non-standard objects, banging the detainee’s head against a wall, and the use of hand-held electrical discharge devices to administer electric shocks, as well as verbal abuse. The purpose of the ill-treatment was apparently intended in some cases to coerce suspects to admit to certain offences in the pre-investigation phase of criminal proceedings.”²¹ Once again, they emphasise the need for: “advanced methods of crime investigation”.

If we compare the specified methods of physical and verbal abuse with the respondents’ statements from their oral interviews, we can detect a great level of similarity in the police officers’ conduct throughout 2017 and by the end of 2019. Namely, in its 2019 Annual Report,²² while visiting the SC and SD, the NPM gave numerous recommendations concerning the elimination of ill-treatment and coercion that the persons deprived of liberty face during police interrogation, which can be here reiterated in full, considering the respondents’ statement in this survey that the NPM had just conducted. So, under all legal obligations and recommendations received so far, the current practice of extorting the confession with coercion should stop, and by relying on the presumption of innocence and revealing the truth through a lawful procedure, respect the rights of persons deprived of liberty, which contributes to the efficiency of the

¹⁹https://www.coe.int/en/web/criminal-law-coop/newsroom/-/asset_publisher/1f1Iqv64qGrg/content/a-new-publication-a-brief-introduction-to-investigative-interviewing-a-practitioner-s-guide-is-made-available-to-law-enforcement-officers?_101_INSTANCE_1f1Iqv64qGrg_viewMode=view

²⁰ <https://www.apt.ch/en/universal-protocol-on-non-coercive-interviews/>, adoption of guidelines planned for 2020.

²¹ Report to the Government of Montenegro on the visit to Montenegro carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), from 9 to 16 October 2017, published in February 2019. CPT/Inf (2019) page 11; 25 etc.

²² <http://www.ombudsman.co.me/docs/488-15.pdf>, page 19-22.

criminal procedure, strengthened trust in institutions, and promotion of the supreme principle of legality.

To the question: How have the police officers treated you during your stay in the police detention, 12.17% of the respondents have reported that the police officers in charge of the detention in the security centres and department have treated them very nicely; 36.51% have reported they have been treated well, or a total of 48.68%. The share of the ones who have reported that they have been treated really badly is: 22.22%; or badly: 20.63%; or, overall: 42.85%. 5.29% of the respondents said they were not sure; and 3.17% could not remember.

So, if we sum up the respondents' answers: very badly, badly, I'm not sure, I don't remember, and overall 52% of the respondents have reported that they were treated badly in the police detention. If we consider separately the answers provided by the female respondents, 2 of them have responded that the police officers had treated them very well; 4 have said well; this is a total of 6, or approximately one-third; 6 have responded that they have been treated very badly, and 2 female respondents have answered that they were treated badly; this makes up a total of 8, or around half of the female respondents; 3 claim that they could not remember.

From the oral interviews, we would like to single out several statements related to the unlawful conduct of the police officers in charge of detaining persons, majority in Podgorica SC: *"For the two days he spent in detention he was treated badly, and, as he says, he only had dry sandwiches to eat"; "They didn't allow me to call a lawyer, they told me I don't have that right. I demanded to see a doctor, as they had kicked me in my crotch, however, they did not call a doctor"; "He was interrogated for the first time by the prosecutor, he was not allowed a telephone call, they wouldn't let him. It was in the Prosecutor's Office that he was informed about the right to a lawyer."*

The previous comments on the need to respect the legal regulations and the recommendations received so far from the international organisations, the Ombudsman, the Council for Civil Control, non-governmental sector, etc. are also fully valid for the comments to the respondents' answers to this question.

To the question: Have you been informed by the police of the possibility and method of filing a complaint against the officers' conduct and the treatment you have received, 82% of the respondents have reported that they had not been informed about the opportunity to complain, and only 18% of them have reported that they were informed about this right. From the answers of the 17 female respondents, it is evident that none of them had been informed of the possibility to file a complaint, and the same is valid for the two minor persons.

The direct consequence from the failure to inform the persons deprived of liberty about the possibility and the method of filing a complaint can be sobered in the very rare cases of complaints being filed by the persons deprived of liberty. The filed complaints predominantly come from the members of their families or their lawyers. Therefore, the persons deprived of their liberty should be made aware of the available protection mechanisms in case of violation of any of their rights. The significance of this right has been regulated in detail in the LPA. So, pursuant to Article 16, persons deprived of their liberty have the right to file a complaint with the PA against the policing work of any police officer when they consider that the officer has, while

implementing the policing activities, violated any of their rights or has inflicted damage; if the complainant fails to receive a response within 30 days, or is not satisfied with the answer, they can address their claim with MOI. In Chapter VIII, in Article 110-120 of the LPA, it has been stipulated that the policing oversight has been ensured with parliamentary, civilian (Council for Civil Control) and Internal Control, which can be carried out also pursuant to the Ombudsman's recommendations.

From all of the above, it can be concluded that the right of any physical or legal person to filing a complaint against the policing work of the police officers, when they believe that the police officer has violated any of their rights or has inflicted damage to them while carrying out the policing work, has been stipulated in the law, as well as the entities that can be addressed by the complainant, the procedure for filing a complaint, etc. However, the lack of information about this right has had a direct impact for this right to be very rarely used in practice, which contributes to fewer opportunities to control the police officers' work, as well as to fewer number of control, disciplinary and judicial procedure, and fewer cases of establishment of liability for the unlawful conduct when depriving someone of liberty.

Have you complained to anyone about the police conduct, the largest share of the respondents, 67.13%, have reported that they had not complained about the police conduct, even though, to the previous question, 42.85% have answered that they had been treated badly or very badly. Those respondents who have complained about the police conduct have reported that they have complained: to a lawyer – 14.35%; and then to the prosecutor and the judge – each 4.63%; and to their families – 4.17%.

According to the received data, persons deprived of their liberty have complained the least: to their doctor and to the Ombudsman – each 1.85%; and the Internal Control of the police ranked last – 1.39%. From the answers provided by the 17 female respondents, it is evident that 3 have complained, as follows: one has complained to a lawyer and a judge, and she emphasises that they have not taken any action; the other has complained to the lawyer and the family; and the third one to the judge and the family. We believe that answers to the previous question, i.e. lack of information about the possibility to file a complaint (82% of the respondents had not been informed about the possibility of filing a complaint) has impacted to the fact that less than one-third of the respondents have complained against the police conduct, with the smallest share of all to the Internal Control of the police, which speaks about the lack of trust in the general conduct of the police officers and in the objective conduct of the Internal Control of the police. To be able to give a more realistic assessment of this question, we believe that the information from the respondents' answers should be compared with the number of complaints received by the police in this period and the outcome of those procedures. Also, it would be interesting to analyse how the lawyers, prosecutors and judges process these complaints, where their professional reactions should in no way be lacking. This is particularly indicated in the details of the respondents' statements given during the oral interviews: *"When I came to the Prosecutor's Office, the plainclothes inspectors continued with their threats"; "I was not made aware of my right to have a lawyer."; "I asked for a lawyer, but they said I couldn't have one. He saw a lawyer three days later, at the Prosecutor's Office"; "He was interrogated for the first time at the Prosecutor's Office, he was not given the right to a telephone call, he was not allowed. It was in the Prosecutor's Office that he was made aware that he has the right to a lawyer"; "They didn't*

allow me to call a lawyer, they told me I don't have this right." "I demanded to see a doctor, because they had kicked me in my crotch, but they didn't call one."

What is particularly concerning is the extremely low share of complaints addressed to the Internal Control of the police, and not a single one to the Council for Civil Control of the Police, or to the non-governmental sector.

II. SURVEY ON THE APPLICATION OF FUNDAMENTAL SAFEGUARDS FOR PERSONS DEPRIVED OF LIBERTY IN POLICE DETENTION

This Survey was designed and conducted in the same way and under the same conditions as the previous Survey (see page 5 of this text), it is complementary to the previous one and aims to present the respondents' experiences during the first hours of police detention. The 20-question (Annex II) survey was completed by 146 respondents, and the questions were divided into five segments: Basic information. **A. Information about one's rights; B. The right to inform one's family or a third party; C. The right to a defence lawyer, as well as D. Examination by a physician.** In addition to the statements from the Survey, 27 persons of the total number of respondents (all of them male), during the interviews, also expressed their observations about being in police detention.

Basic data on the respondents

Concerning the first question: From which Centre or SC were you brought to the Detention Prison, the largest number of respondents replied as follows: SD Podgorica, 44.5%, then SD Nikšić 11.6%, a total of 56%, and the least from SC Danilovgrad, Tuzi, Mojkovac and Plav, all 0.7% each, which means that more than half of the statements expressed refer to SD Podgorica and SD Nikšić.

The following question referred to the type of crimes detainees were charged with: in most cases they are charged with the following crimes: theft, 26%, violence 18.5%, murder 16.4%, drugs 14.4%, weapons and criminal association over 6%, rape 4.1% ... and the least non-compliance with NKT [National Coordination Body] measures 1.4%, aiding a perpetrator of kd [criminal offence] 0.7%, etc. Hence, property-related offences and crimes are dominant with the highest and high degree of social danger respectively. Of the total number of respondents, one was a minor charged with aggravated theft. Of the eight women, who participated in the survey, an extremely high number are those charged with the most serious crimes, three aggravated murders; one kd each: illegal possession of weapons, creation of criminal org, armed robbery, drugs, theft.

The question related to the age of detainees was divided into seven categories, the first of which refers to minors, and the last to persons over 60 years old. These two categories are the least represented in the total number of respondents - one minor - 0.7% and over 60 years old - 42.7%. The highest percentage of respondents or 36.3% of detainees belong to the 30-39 age group, whereas 29.5% of detainees belong to the 22-29 age group, so these two groups make up a total of two thirds of the respondents or 65.5%. The most common age groups among the female population were as follows: three 40-49 years; two 30-39 year; the female respondents charged with creating a criminal organization and armed robbery are the youngest, aged 18-29. The oldest woman is a woman, charged with aggravated murder, aged 50-59.

The following question refers to the gender of the respondents: of 146 respondents - 94.5% are men and 5.5% are women.

When asked, Have you been in police detention before, two thirds of respondents or 66.4% said yes. Of the 27 respondents, who were part of an oral interview, 16 stated that they have been detained more than once, and five that they have been detained multiple times. The same high

percentage was recorded among the respondents from the Survey conducted in 2019, which raises the issue of the implementation of prevention, and dissuasive and effective sanctions.

From the answers of the respondents to the first group of questions, we can state that the largest number 44.5% were from SD Podgorica, and that most respondents were charged with property-related 26% or crimes with the highest and high degree of social danger. These are mostly males (including one minor, 15 years old), middle-aged and younger, whereas two-thirds of the respondents had previously been in police detention. Respondents' answers identify the most serious and aggravated crimes, with characteristics of violence, and being young to middle age.

a) Information about one's rights

Within this segment of the Survey, the first question was: Were you informed of your rights immediately upon arrival at the police station and were you been handed an Information Sheet, a total of 49.3% of respondents claimed that they were not informed about their rights, 12.3% were informed only orally, 9.6% stated that they were informed both orally and in writing immediately, 8.9% somewhat later. One of the respondents from the oral interviews, a foreign national, stated the following: *I asked for a lawyer and an interpreter, but they did not allow it... They wrote the statement themselves, and then gave it to me to sign it. They didn't interrogate me and they typed the statement in Montenegrin, I didn't know what it said. They made me sign it, I don't know what I signed.*" (Interview no. 14). In its recommendation no. 28, page 21 of the CPT Report, the following type of irregularity was ascertained: *"... recommended that effective steps be taken to ensure that detained foreign nationals, who do not understand Montenegrin, receive interpreter services immediately and are not required to sign any statements or documents without such assistance... written information on the rights of detainees should be provided; have to be available in foreign languages... and be offered in practice."*

This and the following question generally refer to the obligation of the police to inform a person deprived of liberty of its rights immediately upon arrival at the police station (right to inform the family; right of access to a lawyer; right of access to a physician). These rights, due to their exceptional importance for the protection of persons deprived of their liberty, shall be subject to protection and are content of numerous international documents, ECHR, Article 5, paragraph 2, CPC (Article 5, paragraph 1, Article 180), LAP and bylaws, which is why CPT paid special attention in its Report²³ to observations and recommendations for improving the situation found in 2017 *"...Montenegrin authorities are hereby asked to undertake steps in order to, without any delay, ensure that all persons, detained by the police, are fully informed of their rights ... by providing clear oral information at the beginning of the actual deprivation of liberty ... as well as by systemically ensuring the afore mentioned information brochures."* Namely, the answers of the respondents, given two years later, show that half of them were not informed of their rights, and only 9.6% were orally and in writing immediately informed about their rights. Answers to the following question: If it was handed to you, did you sign the information sheet, they confirm that the recommendation of CPT and the Ombudsman is still largely not respected, given that more

²³ Report of the Government of Montenegro on the EC visit to Montenegro for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), October 2017 published in February 2019. CPT/Inf (2019) p. 19-22.

than two thirds of respondents 68.5% claim that they were not handed the information sheet list, 20% signed the same after it was handed to them, 5.5% refused to sign it.

When asked how long you were detained in police detention (station), about 40% of the respondents stated that they were detained for more than 48 hours, but less than 72 hours, while about 25% of them were detained for 72 hours and longer. Approximately the same percentage stated that 17.1% were detained for less than 24 hours; 17.8% more than 24 and less than 72h. Namely, Article 264 of the CPC - Deprivation of liberty by the police, among other things, determines the time of detention, paragraph 3: *"In case the person deprived of liberty is not taken before a state prosecutor within 24 hours of said deprivation of liberty, the police has to release that person immediately."*²⁴ From the answers, it may be concluded that 17% were detained for less than 24 hours, and in all other answers there was a longer detention in police custody than required by law, and in 25% of cases even longer than 72 hours, which is possible for the state prosecutor to detain a suspect as per Article 267, paragraph 1. The answers from the oral interviews indicate a longer detention period than required by law: *"They immediately took me to "betonjerka"[bare concrete cell], I spent two days and two nights there, they gave me one meal a day." (Interview no. 12); "I surrendered myself and was detained from Tuesday till Saturday in the station." (Interview no. 21).*

b) Detainee's right to inform its family or a third party

When asked the question: Whether during police detention they was offered a free phone call and the opportunity to notify a family or a third party of the detention, more than half of the respondents 55.5% stated that they were not offered to make a phone call, while about 17% made the call immediately, 13 % after a few hours, and 10% made a call at their own insistence. Answers to the following question: The manner in which the family or a third party was notified confirms that the constitutional guarantee, Article 29, paragraph 4, the legal obligation and the recommendation of the CPT are still significantly not respected, given that two thirds or 65% of the respondents stated that they did not inform anyone of their detention, and those who informed someone mostly did so themselves, by calling using their own or a phone offered to them at the police station.

The above data indicate a significant non-enforcement of one of the "three rights" of persons deprived of liberty by the police, which confirms that the recommendation remains valid: *"CPT recommends that the Montenegrin authorities ensure that all detainees are given the opportunity to inform a person of their choice of the detention from the outset of their deprivation of liberty."*

c) Right to a defence lawyer

The right to a defence lawyer is guaranteed by the Constitution, Article 29, paragraph 5, CPC, Article 261, paragraphs 2-5. When asked the question, Did the police inform you of the right to a defence lawyer, more than third of the respondents 68% stated that they were not informed of the right to a defence lawyer, whereas 23.3% were informed upon arrival, and 7.5% were informed of this right later on. Concerning the answers to the following question: Did you have a conversation with a lawyer immediately after being deprived of liberty, almost 90% of the respondents stated that they did not have a conversation with a lawyer, immediately after being

²⁴ Ibid., page 21.

deprived of liberty, 5.5% had a conversation with a lawyer after a few hours, and only 2.7% immediately after being deprived of liberty.

When asked the question: Where did you first consult a lawyer? the following answers were offered: during police detention; at the prosecutor's office, before entering; in court; no, I did not have a consultation with a lawyer. The respondents stated that they had the opportunity to talk to a lawyer in a separate room and confidentially in only 24.7% of the cases, in 42.5% of the cases they were interviewed in a hallway in the prosecutor's office or in the court, while in 28.8% of the cases they did not have the opportunity to conduct a confidential interview, and in 9.6% of cases they did not have a consultation with a lawyer at all.

The answers to all three questions related to the right to a defence lawyer with regards to all elements (information on the right to a defence lawyer, timeliness and place of interview with the defence lawyer) indicate a violation of the rights of persons deprived of liberty when it comes to their right to a defence lawyer, and that this right is not deemed as measure against the ill-treatment of said persons, but rather as an obstacle to obtain a confession from a person deprived of liberty. This is especially attested by the fact that of 27 respondents, who gave an oral interview, 22 stated that they requested a lawyer, but they were not allowed to meet with a lawyer or that this was done immediately before the court hearing. Most of the allegations speak of a refusal to provide a defence lawyer, even in the presence of a state prosecutor: *"I met the lawyer at the prosecutor's office."* (Interview no. 2 of a minor); *"I talked to a lawyer, assigned ex officio, for the first time at the prosecutor's office. We talked in the hallway, we couldn't be alone because there were two uniformed officers next to us, and one in civilian clothes holding a phone in his hand. I was afraid that he might be recording the conversation I was having with the lawyer."* (Interview no. 12); *"I saw the lawyer for the first time after giving a statement before the prosecutor, and the police officers threatened me, when they took me to the prosecutor's office, not to mention the beating to him."* (Interview no. 15); *"They refused to allow me to talk to a lawyer, not only at the station but also at the prosecutor's office, and the prosecutor did not allow a lawyer. I had my first conversation with a lawyer in the Detention Prison."* (Interview No. 24). Due to the afore mentioned, we believe that the recommendation given in 2017 has not been met: *"CPT asks of the Montenegrin authorities to ensure that all persons detained by the police be informed of their right to have access to a defence lawyer, as well as to be able to exercise that right from the beginning of their deprivation of liberty by the police. It is especially important that the defence lawyer meets with the detainee at an early stage of the proceedings, and is present during the interrogation, as envisaged in the CPC. "*

d) Right of access to a physician

The right of access to a physician is granted to persons deprived of their liberty pursuant to Article 268, paragraph 6 of the CPC: *"The decision on the appointment of a medical doctor, who will perform the examination, and the record of the interrogation shall be attached by the state prosecutor to the criminal case file"*; Article 25 of the LAP – Providing medical assistance: *"The police officer shall, while exercising its police powers, upon request of the person to whom said powers apply, provide medical assistance to that person by a medical institution.* However, when answering the question: Have police officers indicated to you the possibility of a medical examination and assistance, if the need arises, 71.2% of the respondents stated that they were

not informed by the police officers of the right to a medical examination. 17.8% of the respondents were immediately informed of the right to a medical examination, 7.5% were informed later on, and 3.4% could not remember. From the answers to the question: Have police officers indicated to you that you have the right to choose a physician yourself, the respondents in an even larger number of 85.6% stated that they were not informed that they had the right to choose a physician themselves; only 10.3% of the respondents answered in the affirmative, and 4.1% could not remember.

Having in mind that previous answers show that about 25% of the respondents were informed about the right to a medical examination, their answers to the question: If you asked for an examination by a physician, did you get one, confirm that more than half of the respondents, 54.1% who were familiar with the law, did not ask for an examination, and of the 45.9% of respondents, who asked for an examination by a physician, 16.4% of them stated that it was not provided to them. Of the 27 respondents during the oral interviews, five stated that they were being treated against addiction, but that they were not allowed access to a physician or therapy, or that this was done after a long period of time: Interviews no. 3, 4, 5, 13, 22 - *"They kept me in the station for three days without any therapy, and I begged them for it. I'm taking Buprenorphine, I was in a crisis, they didn't even want to hear about it. The policeman gave me a Buprenorphine before entering the prosecutor's office.* In addition to the five above mentioned respondents, eight other respondents stated during the oral interviews that they needed medical assistance, mostly after the physical injuries they received from police officers during the interrogation: Interviews no. 10, 14, 17, 19, 20, 21, 24, 27- *"...they hit me and broke my nose. They took me to the station, they didn't allow me to make a phone call there, and I met with a lawyer only at the prosecutor's office. When I complained that I could neither eat nor sleep because of the pain, it was only after two days that they took me to the emergency room, where they gave me some painkillers."*

When asked the question: Who was the physician that examined you and did you choose it yourself, only those respondents who received a medical examination during their stay in police detention answered: only 1.4% stated that they were examined by the physician they requested; 17.1% by a physician from the emergency service, and 11% by a physician from the emergency service, since they did not ask for another. When asked, How long did you wait for an examination by a physician, 14.4% of the respondents answered that they were immediately allowed to have an examination, within half an hour, and 15.1% that they waited for several hours for an examination. Regarding the right of access to a physician of persons deprived of liberty, CPT, in the 2017 Report. established the connection between physical abuse by the police and the denial or postponement of providing medical care to persons deprived of liberty, so it responded with recommendation no. 26: *"... asks of the Montenegrin authorities to explicitly guarantee the right of access to a physician to persons deprived of liberty by the police from the very beginning of said deprivation of liberty ... it should be made clear that a detainee's request to see a physician will always be granted; neither police officers, nor any other body may filter such requests."* This recommendation of the CPT is still relevant, as evidenced by the answers of the respondents during their oral interviews and the 2020 Survey.

Last question: How would you assess the medical care provided in the first few hours of police detention? Of the total number of examined respondents, 19.1% rated the medical care provided

as good or very good, while 8.2% of them gave it a bad or very bad mark, and 2.1% could not remember.

III. INQUIRY AND ANSWERS TO NPM ON REPORTING POSSIBLE ABUSE DURING THE FIRST HOURS OF POLICE DETENTION

As stated by the NPM, since the end of 2019 there is an ongoing project consisting of two surveys on the conduct of the police during deprivation of liberty and in police detention, as well as a survey on the application of protective measures during police detention. For the purposes of both surveys, questionnaires were prepared and filled out in writing by persons deprived of liberty, and some of them also expressed their views and opinions during oral interviews. In order to get a more complete picture regarding the respect of human rights during the period of deprivation of liberty, that is, the extent to which there is a possible illegal conduct of police officers when performing the deprivation of liberty and in order to improve the current situation, the NPM addressed the following: Supreme State Prosecutor's Office, Department for Internal Control of the Police, Bar Association, DECS, the civil society sector in July 2020, seeking answers on possible cases of ill-treatment during police detention, prosecution and the outcome of proceedings.

The Supreme State Prosecutor's Office responded with a letter emphasizing that it requested a response from all prosecutors' offices (16), and that it received the answer that during the period of 2019 and the first seven months of 2020, cases were opened in three prosecutors' offices. In the Special State Prosecutor's Office, during 2020, in two cases against several persons for the criminal offense of creating a criminal organization, two suspects reported abuse during the first hearing with the special state prosecutor, resulting in examination of the suspects, hiring a forensic medical expert, and collecting data and information from relevant police authorities.

Furthermore, in the Basic State Prosecutor's Office in Podgorica, in the period between 2019 and 2020, three cases opened against 12 persons pursuant to reports by lawyers for the criminal offense of abuse; indictments were filed against two persons; decisions on dismissal of criminal charges were issued against four persons; cases against six people are in their preliminary investigation phase. In the Basic State Prosecutor's Office in Kotor, during 2019, a case was opened pursuant to a lawyer's report, against one official for the criminal offense of abuse, allegedly committed during the apprehension of the injured party at the police station. The criminal complaint was dismissed. In the other 13 state prosecutor's offices, there were no reported cases of ill-treatment of persons deprived of liberty during the first hours of police detention.

So, in the afore mentioned period, a total of six cases were opened by three state prosecutors' offices, all due to the criminal offense of abuse 166a of the Criminal Code of Montenegro, against 15 persons. Decisions on dismissal of criminal charges were issued against five persons; cases against eight persons are in their preliminary investigation phase, indictments have been filed against two persons.

If the number of responses of persons deprived of liberty by the police from both surveys, stating that they were abused during their deprivation of liberty, are compared, it may be concluded

that this number is incomparably higher than the 15 accused police representatives for whom six cases were opened in three state prosecutors' offices (2019 and the first seven months of 2020). It is also noticeable that no court decision has been adopted for any of the mentioned active cases. If the data from the answers of persons deprived of their liberty are compared, 82% of respondents have stated that they were not informed about the possibility of filing a complaint, and consequently a small number of complaints came mostly from their family members or defence lawyers, and in only 4.63% cases of those who actually complained being respondents, who made a complaint before a prosecutor or a judge. The lack of informing the persons deprived of liberty about this right and the lack of trust in the reaction of the authorities directly affect the fact that it is not used, which contributes to reduced ability to control the work of police officers, that is, determining the responsibility for illegal actions during deprivation of liberty.

When asked by the NPM whether during 2019 and the first seven months of 2020 there were in the Police Department for Internal Control reports of abuse by persons deprived of liberty during the first hours of police detention, and whether these cases were processed before the competent authorities, the reply was that there were no reported cases of abuse of persons deprived of liberty for the requested period. The stated data is in accordance with the answers of the respondents from the survey, who stated that only 1.39% complained of abuse during deprivation of liberty to the Police Internal Control. Therefore, the lack of informing the persons deprived of liberty about their right to complain to the UP [PA], and lack of trust related to their way of reacting, lead to sporadic reports of abuse, most often to lawyers 14.3%, although for the application of this right detailed regulation was drafted in the LAP [LAP]. The fact that the Police Department for Internal Control, during this period, did not have any cases related to the abuse of persons deprived of liberty during the first hours of police detention, indicates the need to review the competence and efficiency of this Department.

Having in mind the importance of the role of the defence lawyer in the criminal proceedings, and its importance for exercising the rights of persons deprived of liberty, the NPM submitted to the Bar Association a survey with three questions, which were then forwarded to all lawyers from the Bar Association's e-mail list, which had to be signed for the purpose of providing answers: 1) During 2019 and 2020, did you receive reports for abuse of persons deprived of liberty during the first hours of police detention by the clients you represent, and if so, how many? 2) Were the allegations of ill-treatment reported to the police or the prosecutor's office? 3) If there were any reports to the competent authorities, do you know whether the reports have been processed? The Bar Association submitted a letter and attachments from which it may be seen that 13 lawyers (6 from Podgorica; 3 from Kotor; 2 from Herceg Novi, and one from Nikšić and Budva each) answered the above-mentioned questions, and only one of them answered in the affirmative. Namely, only one of the 13 lawyers answered questions 2) and 3), that is, that during 2020 one case of abuse was reported to UP [PA] Herceg Novi, and that: "there is an ongoing proceeding before the Basic Court of Herceg Novi, based on the recognition of the UPCG, and based on the initiated disciplinary proceedings by the Internal Control." This lawyer answered negative to the first question.

Although the right to a professional defence and the presence of defence lawyer is of exceptional importance for exercising the other rights of persons deprived of liberty, the participation of lawyers in this survey was absent. The already small number of those who responded and signed,

denied the knowledge of possible abuses of persons deprived of liberty that they represent or have represented in the requested period.

Also, the NPM addressed the DECS and the civil society sector requesting information on possible cases of ill-treatment during police detention, but no responses were received from the DECS, although information obtained from detainees or persons serving a sentence on possible cases of ill-treatment during deprivation freedoms by the police were a valuable contribution to the overall understanding of this issue.

The NGO “Građanska alternativa” responded that no one have come forward to this NGO during the relevant period. Comparing the answers of the respondents, who filled out the survey, it is evident that there were no complaints reported to NGOs about the actions of the police during the deprivation of liberty.

Hence, the NPM requested answers to the questions to what extent there is possible illegal conduct of police officers when performing the deprivation of liberty from five relevant entities, one of which did not provide a response, two replied that they had no knowledge of cases of ill-treatment by police officers during deprivation of liberty, one of which was the Department for Internal Control of the Police. Also, the expected input from the lawyers, whose professional assistance to persons deprived of liberty is one of their most important rights, was missing. A detailed answer was received from the VDT, however, the analysis of the procedures and their outcomes shows a relatively small number of processed cases against abuse, and that none of the mentioned cases during the relevant period was finalised by a court decision.

RECOMMENDATIONS

The actions of the police during deprivation of liberty and police detention, as well as the application of fundamental safeguards against persons deprived of liberty in police detention according to detainees, are the central theme of this survey, since deprivation of liberty means taking away one of the main human rights, the right to freedom. Although in modern conditions the rights of persons deprived of liberty are determined by numerous binding acts, the testimonies of detainees show that in practice they are largely not respected, and persons deprived of liberty are mostly unaware of their rights or do not use them due to distrust in the competent authorities. The competencies and powers of state authorities towards the persons deprived of liberty are large, and the rules of conduct are sometimes insufficiently clear and leave room for inaction or abuse, with the oversight system to control the observance of these rights not always effective. The role of the Ombudsman and the NPM is of special importance, which initiated this research.

Persons deprived of liberty are entitled to have their inalienable rights and freedoms respected, and to retain all rights that have not been taken away from them by a decision on the restriction of their rights and on the basis of which they have been retained by a state authority. International instruments protecting the rights of persons deprived of liberty are numerous, and primarily the acts adopted by the UN and the Council of Europe, whose project supported this research. In addition, it is necessary to emphasize the importance of the conditions for respecting human rights during deprivation of liberty: to respect and consistently apply all laws and bylaws

in this area, to humanely treat persons deprived of liberty without any degradation, discrimination and humiliation, where torture and ill-treatment are prohibited, and it is necessary to ensure the contact of prisoners with the outside world and family and many other rights, especially when it comes to minors, women and vulnerable groups.

The aim of this research was to provide a comprehensive analysis of the respondents' answers and obtain data on the success in and obligation of respecting the rights of persons deprived of liberty and detained persons, that is, to contribute to the knowledge of the extent to which the theory, i.e. the foundation of specific rights on the affirmative legal and international legal provisions, and the practice of respecting the rights of persons deprived of liberty, are harmonized.

Based on the majority of answers (usually half or two thirds) obtained from the questionnaires containing questions related to the actions of the police during the deprivation of liberty and police detention, oral interviews with detainees and comparison with international standards and legal obligations of the police, it is evident that police representatives during deprivation of liberty in a large number of cases do not apply the provisions relating to: the obligation to state the reasons for deprivation of liberty, with a small number of issued orders for deprivation of liberty (8.47%); police officers did not have any form of identification on their uniforms, which was criticized by the CPT in its reports several times (2003, 2005 and 2017), which is why the recommendations to the Montenegrin authorities to take measures and ensure the exercising of rights of persons deprived of liberty remains relevant.

Furthermore, more than half of the respondents stated that they allegedly suffered some form of physical or verbal abuse during their deprivation of liberty by police officers, and there are particularly drastic examples from oral interviews, which speaks to the practice of existing police treatment of persons deprived of liberty, which has to be changed by selecting the best staff for employment, continuous education, but also effective measures and actions of the control and management bodies in order to eradicate abuse and respect the rules when exercising their police powers. Taking this into account, particularly in relation to vulnerable categories, women, minors, etc.

The answers of most respondents, especially those from oral interviews, relating to the treatment of police officers during deprivation of liberty, indicate a very stressful experience during deprivation of liberty, which may be related to the above omissions of applying the most important principles when dealing with detainees: inhumane treatment, mostly deprivation of liberty without giving any reasons thereof, without having identification insignia on the uniforms, restraining, physical and verbal abuse, etc.

All of this indicates that anti-abuse activities require not only the adoption of appropriate legal norms, but also taking effective measures to ensure their effective implementation, in terms of selecting the best staff, **continuous education on the importance and content of human rights**, ethical values, integrity, through integrity plans, etc., **development of detailed manuals for exercising certain powers (restraining, transport), application of relevant actions taken during preliminary and regular investigations**, etc., within the human resources unit, but also in other educational centres in Montenegro, based on international cooperation, and the like. It is of special importance that mid-level and management staff efficiently and responsibly perform

their management and control functions, as well as process and initiate sanctions for those who commit disciplinary offenses or criminal offenses during their duties, or do not prevent or prosecute them.

The interviews show many examples of illegal actions in the police official premises after deprivation of liberty, as well as descriptions of inadequate premises and unacceptably poor conditions therein, which were the subject of numerous recommendations for improvement by the KPM and the Ombudsman. It has already been pointed out that half of the respondents stated that police representatives did not have identification insignia on their uniforms during deprivation of liberty, and when they were taken to SD/SC, 70% of the officers (80% of them inspectors in civilian clothes) did not identify themselves, according to the respondents, thus failing to act in accordance with the legal provisions, which means violation of the rights of the persons deprived of liberty, but also preventing or hindering the prosecution and sanctioning in cases of physical or psychological abuse by the police. Illegal conduct of the police during deprivation of liberty and interrogation of persons brought to the SD/SC has long been the subject of criticism and recommendations for improvement, and measures should be taken immediately to ensure that the lack of the “formality” of police officers in uniform or civilian clothes identifying themselves cease to be the manner of treating persons deprived of liberty.

Furthermore, the testimonies of respondents, who say that in 70% of cases they were allegedly abused during the hearing by police officers, are worrying and do not support the expected improvement given through previous recommendations of the CPT, the Ombudsman and other controlling authorities. From the answers of the respondents, it may be concluded that the same methods of physical and verbal abuse were used against them as men, whereas two minors were treated ruthlessly, which is contrary to the legal provisions that explicitly prohibit the threat of or violence against suspects, and demands that the suspect be heard with full respect for its personality.

Also, two thirds of the respondents stated that police officers insisted on confessing to the crime, and testimonies from oral interviews indicate that the legal obligations related to prohibition of violence and extortion, as well as the appropriate assessments and recommendations given by CPT were not respected, regardless of the fact that evidence of confessions obtained illegally cannot be used in eventual criminal proceedings. The extortion of confessions is aimed at forcing the suspects to confess to certain crimes at an early stage of the criminal proceedings, thus illegally obtaining evidence. Having in mind the above, it is necessary to prosecute and act against police representatives who act illegally, but also to organize continuous education and attainment of knowledge, which would lead to practical application of the modern methods of criminal investigation, available in the relevant guidelines of the Council of Europe, UN, and others.

Therefore, we should act in accordance with the legal obligations, act strictly as per the recommendations received so far, and abandon the practice of using coercion for confession, but rather start from the presumption of innocence and find the truth using legal actions, respecting the rights of persons deprived of liberty, thus contributing to the efficiency of the criminal proceedings, strengthening the trust in institutions, and promoting the supreme principle of legality.

The direct consequence of not informing the persons deprived of liberty about the possibility and manner of submitting a complaint (80%) results in very rarely having cases of filing a complaint by persons deprived of liberty, which contributes to reduced control over the work of police officers, that is, establishing liability for illegal actions undertaken during deprivation of liberty. The complaints filed mostly come from their family members or defence lawyers. In this regard, persons deprived of liberty should be provided with information on available protection mechanisms in the event of violation of any of their rights, in particular by their defence lawyers and public prosecutors, in the absence of such information being provided by the police. Although the law stipulates that control of police work is provided by parliamentary, civil (Civil Control Council) and internal control, which may be based on the Ombudsman's recommendations, a small number of respondents stated that they had complained about police actions, and the lowest percentage to the internal police control, which speaks of the distrust in the police conduct or in the objective conduct by the internal control of the police. The actions of lawyers, prosecutors and judges based on such findings or complaints should be unquestionable, and professional reaction should not be omitted in any case, as can be concluded from some of the oral interviews.

The questions from the next survey referred to the application of fundamental safeguards against persons deprived of liberty in police detention, that is, the obligation of the police to inform a person deprived of liberty of its rights immediately upon arrival at the police station (right to inform the family; right of access to a lawyer; right of access to a physician). These rights are the subject matter of the protection and content of the ECHR, Article 5, paragraph 2), CPC, LAP, and subject of special attention for the CPT, the Ombudsman and others. However, from the respondents' answers, it follows that half were not informed about their rights immediately upon arrival at the police station, and only 9.6% were immediately informed about their rights orally and in writing (Information Sheet). The answers of the respondents from this survey confirm, in almost equal percentages, the claims of the respondents from the previous one, that on this occasion the persons deprived of liberty were not informed about their rights, although the legal provisions and recommendations of the CPT clearly require that all persons detained by the police shall be fully informed of their rights by clear oral information at the beginning of their detention, as well as by handing them information brochures. Regarding the time spent in police detention, a quarter of the respondents stated that they were detained for more than 72 hours, which is above the maximum set by law. The lack of informing the persons deprived of liberty about their rights, consequently, has a negative impact on exercising the rights: to inform the family; access to a lawyer; access to a physician.

Also, more than half of the respondents stated that they were not offered to make a phone call and inform the family or a third person about being detained, while 10% made a call at their own insistence. An even higher percentage, 68% of the respondents stated that the police did not inform them about the right to a lawyer, while only 2.7% of the respondents had a conversation with a lawyer immediately after being deprived of liberty. Only a quarter of the respondents claimed that they had the conditions for a confidential conversation with a lawyer, and in 42.5% of the cases they conducted the conversation in the hallway in the prosecutor's office or in the court. The answers of the respondents indicate a gross violation of the rights of detainees when it comes to their right to a defence lawyer, and that the use of this right is not deemed as a

protective measure against the abuse of these persons, but rather as an obstacle to obtaining confessions from the persons deprived of liberty. Due to the afore mentioned, the full application of the legal measures, upon which the right of the defendants to defence depend, has to be ensured, that is, that all persons deprived of liberty by the police be informed of the right of access to a lawyer and that they be enabled to exercise that right from the beginning of their deprivation of liberty, and in the manner prescribed by law.

When it comes to police officers informing detainees about the right to medical examination, 71.2% of the respondents stated that they were not informed about this right, and about half of those informed about the right asked for an examination by a physician, while 16.4% of them stated that they were not enabled to have an examination. Of the 27 respondents during the oral interviews, five stated that they were being treated against addiction, but that they were not allowed access to a physician or therapy, or that this was done after a long period of time. In the CPT 2017 Report, a connection between physical abuse by the police and the denial or postponement of providing medical care to persons deprived of their liberty was noticed, so the response was made with a recommendation that is still relevant, that is, the application of legal provisions is required and prisoners deprived of liberty shall be guaranteed the right of access to a physician from the very beginning of their deprivation of liberty; that a detainee's request for access to a physician has to be always granted, and that police officers or other authorities cannot filter out such requests from persons deprived of liberty.

In addition to the survey answers and the oral interviews with the persons deprived of liberty, the NPM requested answers to the questions to what extent there is possible illegal conduct of police officers when performing the deprivation of liberty from five relevant entities (VDT, Department for Internal Control of the Police, Bar Association, DECS, civil society sector), of which: one did not provide a response, two replied that they had no knowledge of cases of ill-treatment by police officers during deprivation of liberty, one of which being the Department for Internal Control of the Police, whose performance should be investigated again. Also, the expected input from the lawyers, whose professional assistance to persons deprived of liberty is one of their most important rights, was missing. A detailed answer was received from the VDT, however, the analysis of the procedures and their outcomes shows a relatively small number of processed cases against abuse, and that none of the mentioned cases during the relevant period was finalised by a court decision. Overall, the small number of processed, unfinished cases may be interpreted by the passive attitude of the mentioned entities and as consequence of not informing the persons deprived of liberty about their right to report abuse and/or distrust in handling complaints, which all leads to violation of the rights of persons deprived of liberty, and lack of supervising and controlling functions over the work of part of the police representatives.

Due to all of the above mentioned, the positions of the respondents and the data obtained from other participants in this research are of great importance for considering the actions of the police in these situations, since they indicate to points and possible degrees of discrepancy between the prescribed and actual actions during deprivation of liberty. The treatment of persons deprived of liberty and detainees based on the law, that is, the aspiration to respect basic human rights, regardless of being deprived of liberty and socially isolated, is a necessary prerequisite for fair and efficient court proceedings, adequate preparation for returning to society, but also for trusting the work of police services. Repeating this type of research, with the

same participants, with the addition of media participation, e.g. in two to three years, would be a good basis for comparison and the expected improvement of the situation.

ANNEX I QUESTIONNAIRE

On conduct of police during arrest and police custody

GENERAL DATA

1. Which place (Security centre) were you brought in?

2. What criminal offence are you accused of?

3. How old are you?

- | | | |
|--|--------------------------------------|-------------------------------------|
| <input type="checkbox"/> under od 18 y | <input type="checkbox"/> od 18 -21 y | <input type="checkbox"/> od 22-29 y |
| <input type="checkbox"/> 30-39 y | <input type="checkbox"/> od 40-49 y | <input type="checkbox"/> od 50-59 y |
| <input type="checkbox"/> 60 and over | | |

4. Sex F M

5. have you been in police custody on previous occasions?

- YES NO

POLICE OFFICERS' CONDUCT DURING ARREST

6. Location of arrest?

- | | |
|--|---|
| <input type="checkbox"/> at home (house of apartment | <input type="checkbox"/> somebody else's' place |
| <input type="checkbox"/> public place/ premisses | <input type="checkbox"/> on the road |

7. Time of day you were arrested

- early morning during day before midnight after midnight at down

8. were you informed of the reasons by the police and in what manner?

- Yes, verbally Yes, they served me with the warrant No Can't remember

9. Did arresting officers have their names, surnames or numbers (a plate with these markings) on their uniforms?

- Yes No Can't remember

10. Were you verbally or physically abused by arresting police officers?

- Yes, by using excessive physical force (punches, slaps, kicks, beatings)
 Yes, by hitting with non-standard objects (eg. keys, metal bars, etc.)
 Yes, by applying electroshocks from hand-held electroshock devices
 Yes, with offensive and humiliating comments
 No, but they shouted orders and were very rude
 No.
 I don't remember

11. Were you tied up in a vehicle during transportation to the police station and did the police use physical force and insults?

- Yes, I was tied up but the police officers behaved
 Yes, I was tied up and they used physical force - they hit me with their palms, fists, batons
 Yes, I was tied up, they didn't hit me, but they insulted me
 No, I was not tied up, but I was beaten
 No, I was not tied up, but they insulted me and were rude
 No, I was not bound, they behaved

12. The deprivation of liberty for me was:

- Sudden and very stressful, I didn't expect that to happen to me
 Sudden, but not particularly stressful
 Expected, but still stressful
 Expected and not particularly stressful
 Humiliating because I was arrested in front of my family or in a public place
 I don't know

POLICE OFFICERS' CONDUCT IN DETENTION PREMISES

13. Were your handcuffs removed immediately upon arrival at the police station?

- Yes No I was not handcuffed

14. Once in police station, you were brought to the:

- Office Interview Room
 Detention room (cell) I don't know

15. Who did you talk to:

- With an inspector in plain clothes With an officer in uniform I don't know

16. Did the officer introduce himself (name and surname)?

- Yes No I don't remember

17. During the first few hours in police custody, did the police officers use physical force, intimidation or act in an insulting manner during the interrogation?

- Yes, they insulted / humiliated me
- Yes, they slapped me
- Yes, they beat me with a stick
- No
- Yes, they intimidated / threatened me
- Yes, they beat me with a palm/fist
- Yes, otherwise _____
- I don't remember

18. Did police officers insist that you confess to the crime they charged you with?

- Yes, they insisted that I confess
- No, they asked me various questions about the crime

19. How did the police officers treat you during your stay in police custody?

- Very good
- Good
- Not sure
- Bad
- Very bad
- I don't remember

20. Did the police inform you about the possibility and manner of filing a complaint against the police officers regarding your treatment while in custody?

- Yes
- No

21. Have you complained to anyone about the conduct of the police?

- Yes, internal police control
- Yes, family / third party
- Yes, lawyer
- Yes, doctor
- Yes, Prosecutor
- Yes, Judge
- Yes, to the Ombudsman
- Yes, to the Civil Control
- Yes, NGOs
- No.

**ANNEX II
QUESTIONNAIRE**

Basic data

1. From which Center or Security Department were you brought to the Remand Prison?

2. What crime were you charged with?

3. How old are you?

- | | |
|--|--|
| <input type="checkbox"/> less than 18 years old | <input type="checkbox"/> from 40 to 49 years old |
| <input type="checkbox"/> from 18 to 21 years old | <input type="checkbox"/> from 50 to 59 years old |
| <input type="checkbox"/> from 22 to 29 years old | <input type="checkbox"/> 60 years old and more |
| <input type="checkbox"/> from 30 to 39 years old | |

4. Gender

- female male

5. Have you ever been in police custody before?

- Yes No

YOUR EXPERIENCE IN THE FIRST HOURS OF POLICE DETENTION

A – Rights notice

6. Were you informed of your rights immediately upon arrival at the police station and were you given an Information Sheet?

- Yes, I am informed upon arrival, but only orally
- Yes, immediately, orally and I was given an Information Sheet
- Yes, but a little later, only orally
- Yes, immediately orally, and later I was given an Information Sheet
- I was not informed immediately, I was later told and given an Information Sheet
- The officials did not inform me but I found the Information Sheet later in

detention rooms

- I don't remember
- I was not informed of my rights

7. If it was delivered to you, did you sign it after receiving the Information Sheet?

- Yes, I sign it
- No, I refuse to sign it
- I don't remember

8. How long have you been in police custody (station)?

- Less than 24 hours
- More than 24 hours and less than 48 hours
- More than 48 hours and less than 72 hours
- 72 hours and longer
- I don't know exactly

The right of a person to inform a third person of his choice about his detention (family member, friend, etc.)

9. Have you been offered a free phone call in police custody and the opportunity to inform your family or a third person about your detention?

- Yes, immediately
- Yes, but only after a few hours
- I was not offered to make a phone call
- I made a phone call on my own
- I informed my family or a third person before arriving at the police station
- I don't remember

10. If you informed someone of your detention, how did you do it?

- I called by myself using my own phone
- I called myself on the phone offered to me at the police station
- The police officer called the number I gave him immediately
- The police officer later called the number I left, because upon arrival at the station no one responded
- I did not call anyone

- I don't remember

D - Pravo na branioca

11. Did the police inform you that you have the right to a lawyer?

- Yes, right away, I chose my lawyer
- Yes immediately, I have been assigned an ex officio lawyer
- They informed me later about the right to a lawyer
- They did not inform me about the right to a lawyer
- I don't remember

12. Did you have a conversation with a lawyer immediately after your imprisonment?

- Yes, now
- I talked to a lawyer after a few hours
- I did not want to talk to a lawyer
- No

13. Where did you first consult a lawyer?

- While I was in police custody
- In the prosecution, briefly, before entering the prosecutor's office
- In court
- I did not consult a lawyer

14. Were you able to conduct the conversation confidentially?

- Yes, in a separate room, confidentially
- I had the conversation in the hallway of the prosecutor's office / court
- I did not have the opportunity to conduct a confidential conversation
- I did not consult a lawyer at all

C- Medical care

15. Have police officers informed you that you have right to a medical examination if you need it?

- Yes, immediately

- Yes, but later
- No
- I don't remember

16. Have police officers indicated to you that you have the right to choose your own doctor?

- Yes
- No
- I don't remember

17. If you requested a medical examination, is it enabled for you ?

- Yes, it is enabled for me
- No, I am not allowed to see a doctor

If you had a doctor's examination, during your stay in police custody, answer the following questions (do not answer if you did not have an examination while you were in police custody).

18. Which doctor examined you and did you choose it by yourself?

- I was examined by the doctor I was looking for
- Emergency doctor
- An ambulance doctor, because I didn't even look for another one

19. How long did you wait for the doctor's examination?

- It was made available to me immediately, within half an hour
- I waited for several hours for an examination

20. How would you assess the indicated medical care in the first few hours of police detention?

- Very good
- Good
- I'm not sure

Bad

Very bad

I don't remember