

Γραφείο Επιτρόπου Διοικήσεως και
Προστασίας Ανθρωπίνων Δικαιωμάτων



Office of the Commissioner
for Administration and the Protection
of Human Rights (Ombudsman)

Case No: ΕΜΠ 6

**REPORT OF THE COMMISSIONER FOR ADMINISTRATION AND THE
PROTECTION OF HUMAN RIGHTS
AS A NATIONAL MECHANISM FOR THE PREVENTION OF TORTURE
AND OTHER FORMS OF CRUEL INHUMANITY AND DEGRADING
TREATMENT OR PUNISHMENT**

**Report regarding the visit carried out
in the Short-Term Arrest Area
located within the District Court of Nicosia
for cases of criminal jurisdiction**

Officer who carried out the visits:

Katerina Kallitsioni

Era House, Διαγόρου 2, 1097 Λευκωσία, Κύπρος Τηλ./Tel. 22405500
Era House, 2, Diagorou Str., 1097 Nicosia, Cyprus Τηλεομ./Fax 22 672881
Ιστοσελίδα/Webpage: www.ombudsman.gov.cy Email: ombudsman@ombudsman.gov.cy
Facebook: Επιτροπος Διοικήσεως και Προστασίας Ανθρωπίνων Δικαιωμάτων – Cyprus Ombudsman, Twitter: @CyOmbudsman

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I. Conducting a visit

1. In accordance with articles 4 and 5 of Law 2(III)/2009, by which Cyprus ratified the Optional Protocol to the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment, the Commissioner of Administration, as the National Mechanism for the Prevention of Torture has the authority to conduct freely, unhindered and unannounced visits to places where people are deprived or likely to be deprived of their liberty.
2. In this context, the concept of a place of restriction of liberty extends beyond "traditional" places, such as police custody and prisons, to include any place in which at a given time a person may be placed under a regime of restriction of liberty.
3. In this sense, the place where a person detained for any purpose is taken (such as an airport, court, etc.) it's a place of restriction of freedom and as such falls under my responsibilities as the National Mechanism for the Prevention of Torture under Law 2 (III)/2009.
4. Such an area also consists the area of detainers within the District Court of Nicosia, which is used for purposes of secure detention while waiting for the appearance of the detainer before the competent Court in the context of the relevant criminal court proceedings.
5. Our visit to the site in question took place on March 3, 2023. This visit is the first to be carried out after the upgrade / expansion of the site that took place in 2017 by the Department of Public Works in collaboration with the Police and the Chief Protocol Officer, so that the space will comply with international standards both in terms of security and respect for human rights.
6. Throughout the visit, a constructive spirit of cooperation was observed with all the members of the Police who were present and the unhindered access of the Officer of my Office to all areas of the detention center was ensured. Also, during the visit, an inspection was made of the Archive kept at the site, as provided for by the relevant Legislation.

II. Existing situation

7. As mentioned by members of the Police, the stay of the detainees in the said area consists of a few hours with a maximum period of stay from 7.00 am until the end of the work of the Courts (usually until 3 pm). Throughout the day, there is at least one Head of the Ulam Transfers of the Emergency Response Unit (ERU) and usually another 5 Policemen from the same Unit for security purposes as well so as to supervise the detainees. It is noted, however, that in general in the area of the Courts there is a daily presence of a number of Police officers for the purposes of guarding and securing the Courts.
8. The area today, after the upgrading completion by Public Works, includes 3 cells, 2m x 6m each, and each have a separate sanitary area (toilet and sink). Inside each cell only one long wooden bench is placed, although it is not anti-vandal type, as it should be, nevertheless it is permanently fixed on the ground. In front of the three cells there is a small oblong vestibule in which another bench is placed. In the said vestibule there are two surveillance cameras installed which cover only the space outside the cells (vestibule).
9. It is worth noting that after the upgrade / expansion of the space by Public Works, an office has been created in front of the vestibule where the competent Police officers work, for which I express my satisfaction, since before that there was no office and the Police used the vestibule.
10. During the visit, it was found that only one of the three cells is adequately provided with natural ventilation and natural light through windows across the width of the cell. In contrast, in the remaining two cells there is no window beyond the door to the vestibule located outside the cells, and the result being that natural ventilation as well as natural light are limited.
11. During their stay in the area, the detainees remain inside the cell without handcuffs, while they are given the possibility to buy drinks or food at their own expense.
12. A File is kept at the site, where relevant information such as the name of the detainee, the details of his delivery and receipt by the Police, the purpose of his transfer as well as any other information or events that need to be recorded are included.

13. At the time of the visit, there were 6 detainees in the cells, while as established by the diary of entries in the relevant file, on the same day, a total of 21 people were detained in the area. As reported to the Officer of my Office by the Area Manager, but also as confirmed by the inspection of the relevant file, an average of at least 15 people are transported and detained at the area every day. Indicative from the inspection of the file it was observed that on 17/1/2023 16 people were detained, on 26/1/2023 25 people were detained, on 20/2/23 15 people were detained, on 1/3/2023 again 15 people were detained while on 2/3/2023 the number of people reached to 29.
14. Detainers' meetings with their lawyer take place in the waiting area (hallway) because, as we have been told, the separate meeting area, created after the upgrade of the area, is locked and the Area Managers do not have the keys. It should be noted that the above was also ascertained personally by the Officer of my Office, since at the time of the visit, a meeting between the lawyer and the detainee was taking place on the bench outside the cells in the vestibule where both security cameras are installed, without guaranteeing confidentiality.
15. At this point, I consider it appropriate to note that the waiting area within the Courts, even though it is used for a short-term detention, does not cease to be a place of detention for that period of time and the person who is in the said area does not cease to be a detainee.
16. Consequently, the rights of detainees, provided for by the relevant legislation (Law 163(I)/2005) are applied proportionally, within the waiting area. Therefore, the obligations of members of the Police to ensure the respect and exercise of the rights of detainees should be applied accordingly.

IV. Recommendations

17. The right of the detainee to meet with his lawyer out of visual and auditory contact with the members of the Police is provided for in article 12 of Law 163(I)/2005, which provides that:

"12. -(1) Every detainee has the right to have confidential interviews for his defense with his lawyer in the detention center where he is held, in a private area outside the visual and auditory range of any member of the Police or prison staff,

as the case may be, and to deliver and receive confidential instructions, written or oral, from him during the interview.

(2) The right referred to in subsection (1) may be exercised at any time and day and any person in charge of the detention center or member of the Police or prison staff has an obligation not to put up obstacles or obstructions or to limit or obstruct in any way his exercise."

18. The above right and the possibility of exercising it acquires particular weight in view of the fact that the detainee in the said area is awaiting his appearance before the competent Court and therefore, at any time, his confidential consultation and meeting with his Lawyer must be ensured in every case.

19. Therefore, it is in no way justified that the said meeting place which was created after the upgrading of the infrastructure of the detention centers in the Court, should not be used for this purpose and still be locked.

20. Also, extremely important for ensuring the rights of the detainees as well as the orderly operation of the area is the faithful keeping of a detailed file/diary for all the actions that take place inside the waiting area. The keeping of records in similar places has been pointed out repeatedly by the European Committee for the Prevention of Torture (CPT) during its visits to other countries¹ as well as to Cyprus².

21. As I mentioned above, a relevant Archive is currently kept in the area in question, but it does not provide sufficient data. Therefore, the Archive in question should be kept in detail daily so as to include at least, in proportion to the books kept within the other Detentions, the following information:

- the name of each detainee entering the premises
- the purpose of his transfer to the Courts
- the place of detention from where he was transferred to the Courts
- the time of entry and exit from the waiting area
- the competent Police officer who delivers the detainee to the waiting area and any facts or information mentioned during the delivery (health problems, receiving medication, etc.)
- the relevant Police Officer who collects the detainee from the waiting area and any facts or information reported during the collection

¹ CPT Report on the Visit to the United Kingdom in 2011 [CPT/Inf (2002) 6] and CPT Report on the Visit to Gibraltar in 2014 [CPT/Inf (2015) 40]

² CPT Report on the Visit to Cyprus in 2013 [CPT/Inf (2014) 31]

- the people responsible for transporting the detainee to and from the Courts (if they are different from those who deliver and receive the detainee)
- the Manager of the waiting area on the specific day
- the name of the detainee's Lawyer as well as any other person who may have met with the detainee
- whether a body search was carried out on the detainee at any stage of his detention and by which members of the Police as well as any findings
- any other evidence likely to be critical to the further treatment of the detainee (eg symptoms of illness/mental state, signs of mistreatment)

22. In addition to the above information, any incidents of violence by police officers towards detainees or between detainees should be recorded in the file of the site, with full reference of the events that took place, the reasons and the manner in which violence was used (in case of any use by a police officer) and any actions taken or to be taken after the incident.

23. Finally, I am particularly concerned by the fact that in the area in question, as it was established from the inspection of the relevant Archive, an average of 15 or more people are detained daily at the same time (at least in the early hours of the morning, from the transfer of detainees in the area at around 7 am in the morning until 10 am when some of the pending cases are completed and the detainees are transferred to the rest of the detention areas accordingly). The said number of detainees at the same time in the same place is considered quite large and possibly not in line with international standards, with a serious possibility of not ensuring the dignified treatment of the detainees and the full guarantee of their rights.

24. Undoubtedly, the dignified treatment of detainees, at any stage of their detention, concerns both the material conditions of their detention and the safeguarding of their rights.

25. Therefore, the visit to places of detention, based on my responsibilities as the National Mechanism for the Prevention of Torture, does not only aim to record the material conditions that prevail but also to establish the level of guaranteeing the rights of detainees provided for by national legislation and international convention.

V. Recommendations

26. The competent authorities should consider the possibility **as in relation to the two out of three cells in which natural ventilation and natural light are not adequately ensured to further upgrade them by creating windows in them.**
27. In addition, a crucial element for the compatibility of the space with the relevant national and international regulations is its proper management and the dignified treatment of the detainees. **In particular, each cell should, as a rule, be used by as less detainees as possible and, where possible, arrangements should be made in advance so that the detainees are transferred to that area** for the shortest period of time, so that there is no possibility of overcrowding and/or overpopulation in the area.
- 28. Finally, I recommend immediate cooperation between the competent authorities (Police and Chief Recorder of the Court) so that the place for confidential lawyer-detainer meetings, which has been created, can operate immediately and throughout the day and be accessible to detainees and their lawyers, so that to immediately end the unacceptable practice that has been applied until now.**
29. In addition to the above, it has always been my position that members of the Police who come into daily contact with detainees, under any circumstances, should receive continuous training in the handling and rights of detainees. The training of Police officers undoubtedly contributes to their more effective response to the tasks assigned to them and, therefore, to provide better service to citizens who, for any reason, come into contact with the Police.
- 30. Therefore, I recommend that the members of the Police who transport detainees to and from the places of detention as well as those who serve in waiting areas within Courts or other places receive specialized training on the relevant issues.**
31. This Report is submitted to the Minister of Justice & Public Order and the Chief of Police for their own actions in the light of my recommendations, with the request that they inform me of the

progress of the implementation of my recommendations and the relevant work in the area.

32. This Report is also communicated to the Chief Recorder of the District Court of Nicosia for more complete information and her own actions in relation to the meeting place of detained lawyers.

Maria Stylianou – Lottides

**Commissioner of Administration and
the Protection of Human Rights**

**National Prevention Mechanism
of Torture and Other Forms
of Cruel Inhumanity and Degrading Treatment or Punishment**