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**Interim response
of the Government of Serbia and Montenegro
to the report of the European Committee
for the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment (CPT)
on its visit to Serbia and Montenegro
from 16 to 28 September 2004**

The Government of Serbia and Montenegro has requested the publication of this response. The report of the CPT on its September 2004 visit to Serbia and Montenegro is set out in document CPT/Inf (2006) 18.

Strasbourg, 18 May 2006

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I. RESPONSE OF THE STATE UNION OF SERBIA AND MONTENEGRO

**RESPONSE OF THE STATE UNION OF SERBIA AND MONTENEGRO
TO THE REPORT OF THE EUROPEAN COMMITTEE FOR THE PREVENTION OF
TORTURE AND INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT
(DOC. CONFIDENTIAL, CPT (2005)1)**

The competent authorities of Serbia and Montenegro have studied carefully the Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) that was made after the CPT's first periodic visit to Serbia and Montenegro, which was conducted between September 16 and September 28, 2004, pursuant to Article 10, Section 1 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, adopted at the 56th meeting of the CPT, held in the period of March 7 – March 11, 2005.

It is assessed that the recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) are very important in the context of the promotion of human rights, which will be carried out also under the projects and programmes of technical assistance to be provided by the Office of the Council of Europe in Serbia and Montenegro. After all, the implementation of international obligations under human rights conventions to which Serbia and Montenegro is a party, particularly the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, figures very prominently on the list of priorities of the State Union. Likewise, the programmes within the technical cooperation cover all problems catalogued by the CPT, particularly the alignment of the legislation of the country with the provisions of international conventions, reform of the judiciary and prosecution systems, aimed at ensuring their independence, as well as the reform of the police, improvement of prison and psychiatric institutions conditions and training of judges, prosecutors, police officers etc.

Serbia and Montenegro is ready to continue successful cooperation with the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) and is determinate to fulfill all its obligations in this field.

Respectfully,

Rasim LJAJIC

Minister on Human and Minority
Rights of Serbia and Montenegro

I.

SAFEGUARDS AGAINST TORTURE AND OTHER FORMS OF INADMISSIBLE PUNISHMENT IN THE STATE UNION OF SERBIA AND MONTENEGRO

Respect for human dignity, prohibition of torture and protection of the physical integrity are classified as part of the fundamental human rights established by the **Constitutional Charter of the State Union of Serbia and Montenegro (2003)**, the **Charter on Human and Minority Rights and Civil Liberties (2003)**, the **Constitution of the Republic of Serbia (1990)** and the **Constitution of the Republic of Montenegro (1992)**.

The Constitutional Charter of the State Union Serbia and Montenegro guarantees the respect for human dignity in criminal and any other procedure, in the case of apprehension or limited freedom, as well as during the execution of sentences. Any form of violence towards persons with limited freedom or under arrest, as well as extortion of confessions and statements, is prohibited and subjected to punishment. No person is to be subjected to torture, humiliating punishment and treatment. It is forbidden to subject a person, without his or her consent, to medical and other experiments. **The Charter on Human and Minority Rights and Civil Liberties**, article 12, specifies that every one has a right to inviolability of physical and mental integrity, that no one should be subjected to torture, inhuman and humiliating treatment or punishment, as well as that no one is to be submitted to medical or scientific experiment without one's consent.

The Constitution of the Republic of Serbia guarantees the respect for one's personality and dignity in criminal and any other procedure, in the case of apprehension or limited liberty. No one is to be subjected to torture, humiliating punishment or treatment. It is prohibited to execute medical or any other experiments over a person, without his/her consent.

The Constitution of the Republic of Montenegro guarantees respect for personal integrity and dignity in a criminal or any other procedures, in the case of apprehension or limited liberty and during the time of the execution of penalty. Any type of violence towards persons who are under arrest or their liberty is limited, as well as any extortion of the confession and statements, is prohibited and subject to punishment. No one is to be subjected to torture, humiliation and degrading punishment and treatment. It is forbidden to execute medical or any other experiments on a person without his/her consent.

Human dignity, prohibition of torture and protection of physical integrity, guaranteed by the Constitutional Charter of the State Union of Serbia and Montenegro (2003), the Charter on Human and Minority Rights and Civil Liberties (2003), the Constitution of the Republic of Serbia (1990) and the Constitution of the Republic of Montenegro (1992), as a basic human right, has been further elaborated and protected by many laws.

The Criminal Code of the Republic of Serbia (adopted in September 2005, came into effect on January 1, 2006, ceasing the Criminal Law of Republic of Serbia and Federal Criminal Code and **the Criminal Code of Republic of Montenegro** (adopted and came into effect in December 2003, ceasing the Federal Criminal Code), establish that the perpetrator of a criminal action in the execution of a penalty can be deprived or limited from certain rights that correspond with the nature and matter of the penalty and in the way that guarantees respect for personal integrity of the perpetrator and his human dignity. General intention of regulations from the article is to act, in any type of the legally based procedure, in a way that does not violate human dignity of the perpetrator or his personal integrity for that matter. Therefore, it would be in collision with the principle to call the convicted individuals abusive names, to use aggression or threat in the execution of their daily duties, to treat them as inhuman – to insult them, offend them, abuse them or affront them on their nationality or religious believes, etc.

The Criminal Code of the Republic of Serbia and the **Criminal Code of the Republic of Montenegro** envisage criminal actions with the aim to sanction, that is punish the perpetrator of the act of torture and other forms of inhuman, degrading and humiliating behaviour. Those criminal acts are: **illegal deprivation of liberty (art. 132 of the Criminal Code of the Republic of Serbia and art. 162 of the Criminal Code of the Republic of Montenegro)**, **extortion of statement (art. 136 of the Criminal Code of the Republic of Serbia and art. 166 of the Criminal Code of the Republic of Montenegro)**, **maltreatment and torture (art. 137 of the Criminal Code of the Republic of Serbia and art. 167 of the Criminal Code of the Republic of Montenegro)** and **maltreatment of subordinate or younger (art. 406 of the Criminal Code of the Republic of Serbia and art. 462 of the Criminal Code of the Republic of Montenegro)**.

Criminal act of illegal deprivation of liberty (art. 132 of the Criminal Code of the Republic of Serbia and art. 162 of the Criminal Code of the Republic of Montenegro) envisages that a person who illegally detains someone, holds them imprisoned, or takes away their freedom of movement in any other manner, is to be sentenced to three years in prison (the Criminal Code of the Republic of Montenegro envisages sentence to one year in prison). If the above-mentioned has been executed by an official, in maladministration, he/she is to be sentenced to prison sentence in duration from five months to six years. If the illegally deprived liberty has been lasting more then thirty days or was executed in a brutal manner, or the person deprived of liberty has suffered bad health condition consequently, the perpetrator is to be sentenced to eight years in prison. If the death has occurred in the case of the illegally detained person, the perpetrator is to be sentenced to duration from two to twelve years in prison. Criminal action in attempt is also punishable. All the above-mentioned severe types of the criminal action (e.g. executed in a brutal manner, or the person deprived of liberty has suffered bad health condition consequently, or the death has occurred in the case of the illegally detained person), directly or indirectly are connected to torture, that is, torment and other inadmissible and degrading actions.

Extortion of statement (art. 136 of the Criminal Code of the Republic of Serbia and art. 166 of the Criminal Code of the Republic of Montenegro) is a criminal act which occurs when an official in execution of his/her official duty, uses force, threat, or other illegal means in order to extort a statement from an accused, witness, expert or other persons. This criminal act envisages a sentence with duration from three months to five years in prison. If the extortion is followed by severe violence or any other consequences, severe in particular for the accused in a criminal procedure, the perpetrator is to be sentenced to duration from two to ten years in prison. If the criminal action of extortion occurs, it is executed by an official on official duty. Criminal action has been executed, when the force, threat and other illegal means have been used in the intention of extortion of statement or any other declaration. Thus, for the occurrence of the criminal action, it is not necessary to have statement or other declaration extorted.

Maltreatment and torture (art. 137 of the Criminal Code of the Republic of Serbia and art. 167 of the Criminal Code of the Republic of Montenegro) is a criminal action which envisages that a person maltreats another person, or acts in a way to offend human dignity, perpetrator is to be sentenced to one year in prison (the Criminal Code of the Republic of Montenegro envisages pecuniary sentence or prison sentence to one year in prison). If the pain or suffering has been brought by force or threat, or by any other illegal means, in order to extort confession or any other information from a person or a third party, or in order to frighten or illegally punish a person or a third party, or it has been executed from any other motive based on any type of discrimination, the perpetrator is to be sentenced to duration from six months to five years in prison (the Criminal Code of the Republic of Montenegro foresees punishment to three years in prison). If the above-mentioned action has been performed by an official within his/her official duty, the sentence shall be for the first type of criminal action imprisonment with a duration from three months to three years, and for the other type, a prison sentence from one to eight years (the Criminal Code of the Republic of Montenegro foresees prison sentence with duration from one to five years).

This criminal act has replaced criminal act envisaged by previous regulations (Criminal Law of the Republic of Serbia and the Federal Criminal Code) as maltreatment in official duty. The new regulation of the criminal matter provides comprehensive regulation of the criminal act of torture, previously foreseen as maltreatment in official duty. Legislature has specifically envisaged the execution of torture and maltreatment by an official inside the official duty as particularly severe form of criminal action and foresaw more severe criminal sanctions for it. The act of crime is alternatively specified and includes different ways of inhuman actions as torture and others. In broader sense, torture is inhuman and brutal treatment of another person, expressed as causing physical and mental suffering of smaller intensity. It can include effects on physical integrity, such as boxing, hair, ears and nose pulling and such.

Maltreatment of a subordinate or younger (art. 406 of the Criminal Code of the Republic of Serbia and art. 462 of the Criminal Code of the Republic of Montenegro) is a criminal act which foresees that a military officer in service or in relation with the service, maltreats a subordinate or younger person, or treats him/her in a way which insults human dignity, is to be sentenced to prison in duration from three months to three years. If severe physical injury or severe health condition of a subordinate or younger person came as a consequence of these actions, the perpetrator is to be sentenced to prison in duration from one to five years. This action applies to possible maltreatment inside the Army and is envisaged in a separate section under the title Criminal Actions against the Army of Serbia and Montenegro.

Regulations on the prevention of torture are included in the **Code on Criminal Procedure (2001)** where, amongst others, any type of violence against persons deprived of their liberty is forbidden and punishable, as well as any extortion of confession or any other statements from the accused or other persons involved in the procedure. The **Code on Criminal Procedure** contains other regulations directly related to the prevention of torture and other inhuman and degrading behaviour and actions. In addition, the Code regulates specifically rules of hearing of suspects (arts. 226, 251, 320- 332, 433, 445 and 542), detainees (arts. 142-147), conditions allowing deprivation of freedom of suspects (arts. 227-231), their detaining (art. 228), as well as treatment of detainees (art. 148-153). The Code foresees directing to medical check-up of detainees, under his/her request, investigation judge's request or request given by relatives (art. 228).

According to the Code, the hearing must be performed in a complete respect for the human dignity of the accused (art. 89, sect. 7). The use of force, threat, deception, promise, extortion, exhaustion and similar means in order to get confession from the accused, which can be used as evidence against him, is forbidden (art. 89, sect. 8), applicable to the person on hearing in police custody (art. 229). The court decision cannot be based on a statement provided against mentioned injunctions (art. 89, sect. 10). There is also a court's obligation not to take into consideration evidence provided by use of torture or similar actions. The Law includes obligation of the judge to exempt records from the case files on statements provided against mentioned restrictions, either by the official duty or on request of the parties in the procedure (arts. 178, 273, sect. 3 and 4). Parties in the procedure can question brought decision in this matter, but when the decision becomes irrevocable, the acting judge has the obligation to seal the exempt records in a special envelope and keep them separately from the rest of the case files. These records cannot be searched or used in the course of the procedure. The Code regulates the treatment of detainees, specifically banning insulting the dignity and personality of a detainee during the time of detention (art. 148, sect. 1). Wide number of regulations specify the rights of the accused related to accommodation, nutrition, rest, health protection and clothing, access to media, wages, visitation of relatives and physicians, as well as diplomatic and consular representatives, correspondence with defence counsel, international courts and national parliamentary, legislative and executive power (arts. 149 and 150).

In accordance with the regulations of the Constitutions and Criminal Codes, **the Law on the execution of criminal sanctions of the Republic of Serbia** and **the Law on the execution of criminal sanctions of the Republic of Montenegro**, the treatment of convicted persons is included.

Republican legislature in the field of execution of criminal sanctions contains absolute injunction of torture and similar behavior.

The new **Law on the Execution of Criminal Sanctions of the Republic of Serbia** was passed in Parliament in late September, 2005. The Law, which incorporates a series of new standards, has been delivered to the CPT in its draft form. Work is currently under way with the OSCE on the preparation of corresponding by-laws, whose enactment is expected in the beginning of 2006, when the Law on the Execution of Criminal Sanctions came into effect.

The Law on the execution of criminal sanctions of the Republic of Montenegro regulates the treatment of convicts, which has to be human and such as to provide respect, dignity and preservation of the physical and mental integrity of the convicted. Related to this Law, it is important to stress the ongoing changes of the regulations related to solitary confinement, being that current regulations were not in accordance with the international standards in the field.

In the scope of reforms of the legal system, specially with the aim of standardization with the Constitutional Charter of State Union Serbia and Montenegro, as well as standardization with obligations from the international conventions on human rights and membership in Council of Europe, constituent states are undertaking measures in the reform of legislature, especially in the field of guaranteed principles of independence of judiciary from the executive power.

In the course of July 2002, in the Republic of Serbia, changes and amendments were made in several regulations in the field of justice (Law on Court regulations, Law on Judges, Law on seat and jurisdiction of Courts and Public Prosecutions, Law on High Council of Justice, Law on Public Prosecution); amendments were also made to the Criminal Code. At the beginning of 2003, the Constitutional Court of the Republic of Serbia proclaimed several regulations from the Law on Judges unconstitutional, which interfered in the independence of justice. Following this, in March, Parliament has adopted amendments of the Law on Judges, considering the implementation of decision brought by Constitutional Court and regulating these issues in accordance with the international standards.

SERBIA AND MONTENEGRO
MINISTRY OF DEFENSE
DEFENSE POLICY DEPARTMENT
International Military Cooperation Service
No. 116-9
27 February 2006

Remarks on the CPT Report,
opinion communicated by:

COUNCIL OF MINISTERS MINISTRY OF HUMAN AND MINORITY RIGHTS

Reference: Your letter No. SI/2006 dated 2 February 2006

The Delegation of the European Committee for the Prevention of Torture and Inhuman and Humiliating Treatment or Punishment (CPT) visited, in the course of its stay in SRM, detention units at the Correctional Facility-Military Prison Niš and at the barracks Bubanjnski Heroji and Pantelej in Niš and made in that respect its observations and evaluations in its Report.

Given that the CPT delegation stated in its Report that it had established very good cooperation in the course of the visit to SRM at the State Union level and had noticed no phenomena at the military installations that could be reported as irregularities, the Ministry of Defence of SRM has no objections to make to the contents of the Report of the delegation of the European Committee for the Prevention of Torture and Inhuman or Humiliating Treatment or Punishment.

At the same time, we wish to point out that on 31 December 2004, that is when the military judicial system was abolished, the detention union at the Correctional Facility - Military Prison Niš ceased to exist and would like to ask you to notify the representatives of the mentioned Committee accordingly.

(signed)

Snežana Samardžić-Marković,

ASSISTANT MINISTER
IN CHARGE OF DEFENSE POLICY

Cc:

- Office of the MD (for information);
- the Secretariat of the MD (for its information);
- a/a.

II.

INDIVIDUAL RESPONSES OF THE COMPETENT AUTHORITIES OF SERBIA AND MONTENEGRO TO THE REPORT OF THE EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE AND INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

Please find enclosed the individual responses of the competent authorities of Serbia and Montenegro to the Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) that was made after CPT's first periodic visit to Serbia and Montenegro, which was conducted between September 16 and September 28, 2004, pursuant to Article 10, Section 1 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, adopted at the 56th meeting of the CPT, held in the period of March 7 – March 11, 2005.

The Ministry of Human and Minority Rights of Serbia and Montenegro forwarded the Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), in way to provide from them relevant responses, to the below listed state authorities:

Republic of Serbia

1. Ministry of Justice
2. Ministry of Interior
3. Ministry of Health

Republic of Montenegro

1. Ministry of Justice
2. Ministry of Interior
3. Ministry of Health

The individual responses that we are now forwarding to you as an integral part of this Document, we got from the below listed state authorities:

Republic of Serbia

1. Ministry of Justice
2. Ministry of Interior
3. Ministry of Health

Republic of Montenegro

1. Ministry of Justice
2. Ministry of Interior
3. Ministry of Health.

II. RESPONSES OF THE AUTHORITIES OF THE REPUBLIC OF SERBIA

A. Ministry of Interior

**Republic of Serbia
MINISTRY OF INTERIOR
Belgrade
Dated: 09. 02. 2006**

**COMMENTS AND REPLIES TO THE RECOMMENDATIONS
CONTAINED IN THE REPORT OF THE COMMITTEE FOR THE
PREVENTION OF TORTURE OF THE COUNCIL OF EUROPE**

A. Institutions within the competence of the Ministry of Interior

Preliminary remarks

Information required

1. Texts of the new Law on Police and the new Penal Code (par 26).

Torture and the forms of mistreatment

Recommendations

2. *The relevant national authorities, as well as senior police officers, should regularly instruct police officers that ill-treatment will not be tolerated, that all information regarding possible ill-treatment will be investigated and that perpetrators of such treatment will be subjected to severe sanctions. It is particularly important that this be made clear to officers of the criminal police (par 34);*
3. *Any non-standard issue objects should be immediately removed from all police premises where persons may be held or questioned. Any such items seized during criminal investigations should be entered in a separate register, properly labelled (identifying the case to which they refer) and kept in a dedicated property store (par 34);*
4. *Police officers should be reminded that no more force than is strictly necessary should be used when apprehending a suspect and that, once apprehended persons have been brought under control, there can never be any justification for their being struck (par 35);*

5. *A very high priority should be given to professional training for police officers of all ranks and categories, including in modern investigation techniques. Experts not belonging to the police should also be involved in this training. An aptitude for interpersonal communication to be a major factor in the process of recruiting police officers and, during the training of such officers, considerable emphasis to be placed on acquiring and developing interpersonal communication skills (par 38);*
6. *Whenever criminal suspects brought before an investigating judge or public prosecutor at the end of police custody or thereafter allege ill-treatment by the police, the judge or prosecutor should record the allegations in writing, order immediately a forensic medical examination and take the necessary steps to ensure that the allegations are properly investigated. Such an approach should be followed whether or not the person concerned bears visible external injuries. Further, even in the absence of an express allegation of ill-treatment, the judge or prosecutor should order a forensic medical examination whenever there are other grounds to believe that a person brought before him could have been the victim of ill-treatment (par 40).*

Regarding the first four recommendations the Commission compiled a detailed “Proposal of the vocational training, education and advance training program of police personnel for the prevention of torture and building of communication skill with citizens“, delivered to the Minister on 14. 11. 2005. The themes and teaching subjects covered by the Proposals were as follows:

1. Human rights standards for the Police (with 9 teaching subjects)
2. Torture (with 5 teaching subjects)
3. Police and public relations (with 5 teaching subjects)

Regarding the first recommendation, at the level of the Serbian Republic Ministry of Interior the Directorate for Vocational Training, Education and Advance Training has been in charge of implementation of the plans and programmes for training the police officers.

Regarding the second recommendation, the Commission, while touring the organizational parts of the Ministry, which have the premises for detention within their structures, stated specifically to the police officers and their superiors that any non-standard issue objects should be immediately removed from all police premises where persons may be held or questioned and that any such object seized during criminal investigation should be recorded in a separate register, duly marked (referenced to the case involved) and kept in a separate special purpose area.

Requested information

7. *Comprehensive information on the state of proceedings in court cases concerning alleged ill-treatment by the police during "Operation Saber" (par 36);*

The MoI of the Republic of Serbia has no data available about the status of the court processes of cases relating to the charges of mistreatment by the police during the "Operation Saber".

8. *In respect of 2003 and 2004, the number of complaints of ill-treatment lodged against police officers and the number of criminal/disciplinary proceedings which were initiated as a result, and a detailed account of the specific criminal/disciplinary sanctions imposed following complaints of ill-treatment (par 39);*

The General Inspectorate has the data on the number of instituted complaints of alleged torture during the police action "Saber" and the appraisal of their merit.

**STATISTICAL BREAKDOWN OF THE GENERAL INSPECTORATE'S ACTION
ON COMPLAINTS FILED UNDER THE ALLEGED TORTURE DURING POLICE
ACTION "SABER"**

Totally 29 complaints were filed by 41 individuals.

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Complaints were finalized on behalf of 24 known and 4 anonymous persons of which:

Grounded 12 complaints for 7 persons,
Ungrounded 11 complaints for 17 persons and 3 anonymous persons,
Recommendation was issued on 1 complaint to check the allegations of torture over an anonymous person

Hence, official powers were overstepped in the case of 7 persons, while the allegations for 17 persons and 3 anonymous persons were unconfirmed.

The implementation of the proposed measures and the establishment of the identity of the police officers who in the given cases breached their official powers is not under the competence of the General inspectorate.

9. *Detailed information on police complaints and disciplinary procedures, including the procedural safeguards aimed at ensuring their objectivity information on police complaints disciplinary proceeding, including procedural protection measures aimed at objectivity (par 39).*

The General Inspectorate has no such data.

Detention conditions

Recommendations

9. *The authorities should carry out a full-scale review of arrangements for the holding of criminal suspects on police premises, in the light of the criteria set out in paragraph 41 and the remarks made in paragraph 43 (par 44);*

10. *Immediate measures should be taken in order to:*

- *provide persons in police custody with food at appropriate intervals (which implies that budgetary means must exist for providing food to persons not in a position to pay for it themselves), including at least one full meal (i.e. something more substantial than a sandwich) every day;*
- *provide a mattress and blankets to persons kept in custody overnight;*
- *ensure that corridors or offices are not used as ad hoc detention facilities and that persons detained on police premises are not left handcuffed to radiators or items of furniture. Detained persons should be accommodated in rooms/cells designed specifically for that purpose, offering appropriate security conditions (par 44).*

The Commission has toured the detention premises of 20 police stations and has not found any detained person at the time of its visit. According to the superiors, they practice to take them, due to inadequacy of detention premises, if they get the measure of detention after the official procedure, to the nearest district prison, under the jurisdiction of the Ministry of Justice.

On the basis of direct inspection of detention premises and hygienic living conditions therein, the Commission established that in most cases they were below satisfactory, can not meet the basic requirements of the detained and that the situation was not compliant with the standards of the Council of Europe:

- In individual detention premises, there were no WCs and if there were they were unclean or out of function;
- Ventilation was out of order or obstructed;
- There was no distance heating or it was malfunctioning;
- Artificial lighting was weak, so that there was not enough light in the premises;
- Mattresses and blankets were missing in almost all detention premises;
- Beds were dilapidated or non-existent and concrete benches were used instead, or floor covered with wooden planks;
- Some premises were humid and unpainted or unusable, etc.

In any case, the Commission recommended to all organizational units of MoI which have detention premises in their structures to provide food to detained persons according to adequate time table, and that mattresses and blankets and adequate hygienic conditions be provided.

The Commission proposed on 22.12.2005 to the competent department of MoI to look for funds in the budget of the Republic of Serbia for 2006 for adaptation of the detention premises in the competence of MoI of the Republic of Serbia and particularly to:

1. Install video surveillance with audio and vide recording;
2. Repair the existing toilet premises and start building new if non-existent;
3. Adapt the existing beds (remove concrete head support and sharp edges) and install new ones where non-existent;
4. Procure adequate bed equipment (mattresses and blankets);
5. Rehabilitate the floors in a uniform way (somewhere floors are wooden, somewhere concrete) and whitewash the walls in detention premises;
6. Remove the iron rings for tying and other objects, which may serve for self-mutilation of the detained (e.g. screws, ruined valves in WCs and the similar);
7. Repair, replace or clean up the existing ventilation for normal air flow and install ventilation in the premises where there is none;
8. Improve artificial light (bulbs) and enable penetration of day light (if the detention area is well placed, but they are mostly in the basement or cellars of the facilities);
9. Provide the detainees with a minimum of one full meal a day.

MoI of the Republic of Serbia will invest funds in the coming period in the adaptation of the detention premises, while the Police Administration of MoI established a list of priority organizational units.

Concerning the last recommendation, a citizen who thinks his basic rights are violated can address his complaint to the General Inspectorate or other MoI services examining the legality of conduct of police officers. In 2005, the General inspectorate examined the allegations about handcuffing a female minor to a radiator in the premises of Police station Stari Grad, which were found ungrounded after a comprehensive investigation.

Safeguards against ill-treatment of persons deprived of their liberty

Recommendations

1. *The Serbian authorities should take appropriate steps to ensure that the right to notify a close relative/third party of the fact of one's detention is rendered fully effective in practice, as from the very outset of deprivation of liberty (par 47);*
2. *The Serbian authorities should take steps to ensure that the right of access to a lawyer for persons in police custody applies as from the very outset of their deprivation of liberty (and not only when they are formally questioned for the first time) (par 49);*
3. *As regards juveniles, a lawyer should always be called when they are deprived of their liberty by the police. They should not be required to make any statement or sign any document related to an offence of which they are suspected without the lawyer being present (par 49);*

4. *Anyone who is under a legal obligation to attend and stay at a police establishment (e.g. as a "witness" or a misdemeanour offender) should also be granted the right of access to a lawyer (par 49);*
5. *The system of legal aid in Serbia should be reviewed, in order to ensure its effectiveness throughout the procedure, including at the initial stage of police custody (par 50);*
6. *The right of access to a doctor for persons in police custody should be fully implemented in practice, from the very outset of their deprivation of liberty (par 52);*
7. *Steps should be taken to ensure that:*
 - a. *a person taken into police custody has the right to be examined, if he so wishes by a doctor of his own choice, in addition to any medical examination carried out by a doctor called by the police (it being understood that an examination by a doctor of the detained person's own choice may be carried out at his own expense);*
 - b. *all medical examinations are conducted out of the hearing and, unless the doctor concerned expressly requests otherwise in a given case, out of the sight of police staff;*
 - c. *the results of every examination, as well as any relevant statements by the detained person and the doctor's conclusions, are formally recorded by the doctor and made available to the detained person and his lawyer (par 52);*
8. *A form setting out in a straightforward manner the rights of persons in police custody should be systematically given to such persons, at the very outset of their deprivation of liberty. The form should be available in an appropriate range of languages (par 53);*
9. *The detained person should be asked to sign a statement attesting that he has been informed of his rights in a language which he understands (par 53);*
10. *Steps should be taken immediately to ensure that whenever a person is deprived of his liberty by a law enforcement agency, for whatever reason, this fact is recorded without delay (par 55);*
11. *The Serbian authorities should draw up a code of conduct for police interviews. The code should deal, inter alia, with the following: the systematic informing of the detained person of the identity (name and/or number) of those present at the interview; the permissible length of an interview; rest periods between interviews and breaks during an interview; place(s) in which interviews may take place; the questioning of persons who are under the influence of drugs, alcohol or medicine, or who are in a state of shock. The code should also provide for a systematic record to be kept of the times at which interviews start and end, the persons present during each interview and any request made by the detained person during the interview and whether it was complied with. The position of particularly vulnerable persons (for example, the young, those who are mentally disabled or mentally ill) should be subject to specific safeguards (par 56);*
12. *As regards juveniles, steps should be taken to ensure that an adult responsible for the interests of the juvenile (e.g. a relative or guardian) is present when the juvenile concerned is interviewed (par 56).*

Regarding the first two recommendations, the Commission has made detailed examination what the police officers know about the treatment of detained persons and control of the records on the detained persons and found out that the police officers know the procedure to be applied to detained persons. In few cases, procedural omissions were found in the records on the detained persons, where the Commission ordered to the heads of organizational units to eliminate the same urgently.

The above mentioned "Proposed program of vocational training, education and advanced training of police personnel for the prevention of torture and building the skill of communication with citizens" the teaching subjects were covered that would be applied in the education of police officers for the prevention of torture.

Regarding the third and the fourth recommendation, the Commission found no deficiencies in the respect for these rules in the work so far.

The fifth recommendation is not in the competence of the General Inspectorate of the RPP.

Regarding the sixth and seventh recommendations, the Commission found in its work so far that the police officers in the course of 2005 ensured the medical examination in all the cases when the detained person requested so.

Regarding the eighth recommendation, the Commission having completed the case study about the status of detention premises in the competence of MoI will propose the form in compliance with this recommendation.

The respect for the ninth recommendation depends on the production of the form referred to in the preceding recommendation.

Regarding the tenth recommendation, MoI of the Republic of Serbia shall devote special attention to the education of police personnel on record keeping of the arrested persons and detainees as well as of their legal rights.

In keeping with the eleventh recommendation, the Commission suggested to the Minister of the interior to form an expert task force at the level of MoI to produce the Code of conduct for police investigation.

Regarding the twelfth recommendation, the Commission suggested to the Crime Police Administration to take the measures providing for the presence of an adult person responsible for the interest of minors during the investigation of the same.

Comments

- 3. The fundamental safeguards of persons in police custody would be reinforced if a single and comprehensive custody record were to be kept for each person detained, in which would be recorded all aspects of his custody and all the action taken in connection with it; the detained person's lawyer should have access to such a custody record (par 55);*

The Commission in its work so far has found that no official records have been kept calling for taking the person out of detention premise (e.g. official investigation) and that no official actions were recorded in the box: NOTE in the records entitled "Survey of Detained Persons". The Commission ordered on the spot to the Heads to state in future every entry/exit of detention premises.

- 4. The return of prisoners to police custody - for whatever purpose - should only be sought when it is absolutely unavoidable and be subject to the authorisation of the relevant prosecutor/judge (par 57).*

Information required

- 5. Detailed information on the present status of Serbian legislation regarding exceptions to the right to notify one's custody to a close relative/third party (par 48);*

Article 147 par 1 of the Code of Criminal Procedure stipulates the duty of an interior authority, namely court, to immediately after arrest but within 24 hours at the latest, inform the family of the apprehended person or another individual sharing with the former married or unmarried or another community, unless the arrested person shall explicitly object, so there are no exceptions or limitations to the rule.

- 6. Comprehensive information on the frequency of visits by the Inspectorate General of the Ministry of the Interior, prosecuting/judicial authorities and members of the Serbian Parliament's Commission for Security to police establishments in 2003 and 2004, and, as appropriate, on the action taken following those visits (par 59);*

The General inspectorate of RPA via the Chairman of the Commission who is employed in the Inspectorate is in charge of visits to the police institutions as discussed in the preliminary remarks.

- 7. A copy of the Law on the Office of the Ombudsman, once it is adopted (par 60).*

MINISTER
Dragan Jočić

B. Ministry of Justice



REPUBLIC OF SERBIA
Ministry of Justice
Department for the Execution of Penal
Sanctions
No.:7-00-41/2005-18
Date: 21 November 2005
B e l g r a d e

MINISTRY FOR HUMAN AND MINORITY RIGHTS
To the attention of the President of the European Committee for the Prevention of Torture
and Inhuman or Degrading Treatment or Punishment

B E L G R A D E

SUBJECT: Interim response on the measures taken and actions planned in connection with the Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, drawn up and transmitted after the visit to the institutions for the execution of penal sanctions in Serbia and Montenegro that took place from 16 to 28 September 2004

A conclusion that can be drawn after examining the Report is that the comments and recommendations thereof are aimed at ensuring a better, more beneficial and more successful protection of convicted persons and remand prisoners. Generally, we find the Report objective and the recommendations justified and accept to take the necessary measures for their implementation.

81.- We note with pleasure that the new Law on the Execution of Criminal Sanctions was passed in Parliament in late September. The Law, which incorporates a series of new standards, has been delivered to the CPT in its draft form. Work is currently under way with the OSCE on the preparation of corresponding by-laws, whose enactment is expected in the beginning of 2006, when the Law on the Execution of Penal Sanctions comes into force.

83.- The request of the Committee for updated information on the action taken in relation to two specific cases referred to in paragraph 83 of the Report could not be met because the convicted persons in question were not specifically mentioned by name and it was therefore impossible to check their allegations. The allegations may pertain to*, a convicted prisoner who fled from the semi-open section of the Penitentiary and who was subsequently found and brought back on the night between 5 and 6 July 2004 by the police from Apatin after an APB had been issued for him.

On the Committee's recommendation that prison officers should be instructed that all forms of ill-treatment, including verbal abuse, are unacceptable, please note that our security staff had a 40-hour training in April and May 2005 according to the curriculum prepared by the Ministry of Justice during which they were instructed about the conditions and terms for the use of means of control and about the proper treatment of convicted persons and remand prisoners. In addition to the instruction at the Training Center, junior custodial officers receive regular on-the-job training about these standards.

85.- The authorities at Belgrade District Prison have repeatedly and clearly instructed prison officers that ill-treatment will not be tolerated and that prison officers who violate these standards will be sanctioned most severely. We believe that this clear message has produced tangible results because no convict or remand prisoner has complained of physical ill-treatment by the security staff during the regular prison rounds and interviews with inmates.

In 2004, disciplinary proceedings were initiated at Sremska Mitrovica Penitentiary Reformatory against a senior member of the security staff because of inadequate use of means of control. A pecuniary disciplinary measure was imposed against the prison officer in question, under which his salary was reduced by 30% for a period of three months. In 2005, disciplinary proceedings were launched against another prison guard because of a serious breach of professional duty. The proceedings are still under way.

87.- The problem that we are encountering and that has not yet been resolved in a satisfactory way concerns inter-prisoner violence and intimidation. We know that it is our duty to protect prisoners and to actively prevent inter-prisoner violence. Violent episodes usually occur in premises in which prisoners are held, as a rule in cells and dormitories accommodating between 15 and 20 inmates. Prison officers promptly respond to cases of inter-prisoner violence. They intervene the moment the incident is brought to their notice. The violence is quashed and the inmates engaged in it are transferred to other cells and subjected to medical examination for possible injuries. More serious incidents are reported to the Vozdovac Police Station, whose inspectors then conduct on-the-site investigation. To act preventively, prison authorities frequently conduct a thorough search of the remand prison premises. All objects potentially dangerous and harmful to other inmates are confiscated.

88.- Prison officers always file disciplinary reports against convicted persons and remand prisoners who violate the House Rules, but sometimes they are unable to do so because convicted persons and remand prisoners who have sustained injuries in inter-prisoner violence refuse to identify the perpetrators. Another closely related problem is that inmates are reluctant to give evidence about cases of ill-treatment among prisoners.

* The name of the person has been deleted in accordance with Article 11, paragraph 3, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, which stipulates that "... no personal data shall be published without the express consent of the person concerned".

91.- On health protection services, we accept the recommendation that a medical examination should consist of a full account of statements made by the prisoner concerned, a full account of objective medical findings based on a thorough examination and the doctor's conclusion. We have given clear instructions to the medical staff that this recommendation is to be observed.

Committee members note that all injuries sustained by convicts and remand prisoners are diligently recorded on their arrival, but that there is room for improvement. They also recommend that more attention should be paid to what convicts and remand prisoners state about their health condition and to the immediate recording of such accounts. Also, the objective medical findings should be as detailed as possible and recorded in the prisoner's medical file, together with the medical examiner's conclusion.

Bearing in mind that these recommendations are well-intended, we shall do our best to observe them in our future work in order to improve the health protection of convicted persons and remand prisoners and resolve the problem of violent episodes in prisons.

92.- As for the comment on the shortcomings of autopsy reports, please note that such reports fall outside our jurisdiction because post-mortems are conducted at the Institute of Forensic Medicine in Novi Sad.

94.- The new Criminal Code of the Republic of Serbia, which comes into force on 1 January 2006, introduces alternative criminal sanctions. The executing authority for these sanctions, including community work and suspended prison sentence with enhanced supervision, will be the Department for the Execution of Criminal Sanctions. The idea behind introducing alternative sanctions for some categories of criminal offences was to help reduce the number of prison convictions through a comprehensive policy aimed at alleviating the problem of prison overcrowding.

97.- All cells in Pavilion II hold one or two prisoners; up to four detainees in one cell are accommodated only in the remand prison section because of the shortage of space. The problem has been brought to the notice of the President of the District Court in Sremska Mitrovica.

99.- We agree with the CPT's assessment that material conditions at Belgrade District Prison can be improved by renovating the remand prison premises. Renovation of Section 2-1, along with improvements in sanitary conditions, was completed this year. A video surveillance and alarm system was installed and all electrical wiring (dating back to 1953) was replaced. A procedure is currently under way to prepare the necessary technical documentation for the renovation of the Special Detention Unit in Ustanicka Street in Belgrade, with the aim of improving accommodation and security conditions for detainees suspected of involvement in organized crime and war crimes. The schedule of the renovations will depend on the availability of funding. In our view, the approved financial plan for 2006 will make it possible for us to complete the renovation of the Special Detention Unit and build a new kitchen next year.

100.- The Committee's assessment regarding prison overcrowding is valid. However, in view of the continuous increase in the number of detainees over the past two years, Belgrade District Prison currently has no possibility to reduce the number of prisoners per cell. At present, there are 900 inmates in the prison, whose optimum capacity is 450 prisoners.

101.- As for the state of hygiene, measures have been taken to improve the situation at Belgrade District Prison. A sanitary technician has been employed to oversee the conditions on a daily basis and propose improvement measures. We maintain that the overall state of hygiene during meal preparation in the prison kitchen has been significantly improved. Disinfection and pest control are regularly conducted in all prison premises. The prisoners bathe twice a week (on Tuesdays and Saturdays). The prisoners' diet has also been improved by introducing fresh fruit (a banana or an apple once a week), dairy products and fish. Furthermore, prison authorities will take the necessary action to prevent the storing of rubbish in sanitary facilities.

102.- The shortcomings mentioned in this paragraph can be overcome by minor renovation works to close the big barred windows.

103.- Designs for the new kitchen (to be relocated to the present warehouse area) have been sent for approval to the competent authorities. After receiving the necessary approval, the prison authorities will initiate a public procurement procedure for the construction works.

The observation that prisoners do not receive fresh fruit and dairy products is not valid, because fresh fruit is supplied once a week by the "Jabuka" company from Belgrade and dairy products (powder milk, cottage cheese, cheese spread and processed cheese) by the "Kruna" company from Belgrade.

104.- A detailed schedule for regular prison maintenance and improvements will be submitted to the Committee by 1 December 2005, by which date we expect to complete the preparation of the necessary technical documentation and maintenance schedules.

105.- Belgrade District Prison will replace the window panes in the Special Detention Unit at the earliest opportunity and find the adequate technical solution to secure the windows overlooking the prison exercise area. Basement cells are no longer used for the accommodation of prisoners and this will remain so in the future.

106.- The prison authorities provide a winter and a summer uniform for each convict, under Article 16 of the Regulations on House Rules for District Prisons ("Official Gazette of the Republic of Serbia", No. 24/2000). Remand prisoners wear their own clothes; prison authorities do not provide clothing for them because there are no allocations in the budget for this purpose. Exceptions are made in the case of poor remand prisoners, to whom prison authorities provide a winter uniform. Also, convicted persons who do not have sufficient means of support are supplied with basic personal hygiene items (a towel, soap, tooth brush and tooth paste). The prison authorities are strictly observing the rule that only detainees with no money in the prison deposit are entitled to personal hygiene products free of charge.

108.- On the CPT's recommendation that measures be taken to renovate the prison school and to offer educational opportunities, especially to illiterate prisoners, please be advised about the following:

The OSCE and the Department for the Execution of Criminal Sanctions have co-launched an initiative for a pilot educational programme for inmates at Sremska Mitrovica Penitentiary Reformatory. The Department has conducted an assessment of educational needs and obtained offers from the "Nikola Tesla" Secondary Technical School in Sremska Mitrovica, the "Jovan Popović" Elementary School in Sremska Mitrovica, the "Božidar Adžija" Community College in Belgrade and the Sremska Mitrovica Section of the Open University "Znanje" ("Knowledge") in Zemun. A project proposal for the education of convicted prisoners has been submitted to the OSCE for approval. Under the proposal, the Department would cover the school renovation costs, whereas the OSCE would cover the costs of the school equipment, teaching aids, a computer classroom and instruction for a period of one year. The OSCE sought guarantees from the Department that the education system at Sremska Mitrovica Penitentiary Reformatory would continue to function after the expiry of the one-year pilot programme. The Department provided such guarantees and envisaged allocations for this purpose in its financial plan. The project, valued at 73,880 Euros in total, has been submitted to the OSCE Mission in Belgrade in electronic form. We have received firm assurances that the proposal will be approved, following which we can start with the implementation phase. The Department shall commit itself to ensuring that education becomes one of the key factors of prisoners' re-socialization, with the same vigour with which it has initiated the project.

109.- We appreciate the CPT's recommendation concerning the implementation of the classification system for prisoners. In order to overcome the observed deficiencies, we have taken the following measures: to make the system more transparent, we have prepared a brochure in which the benefits for the six classification categories and sub-categories are clearly outlined. The brochure is intended both for the staff and prisoners. The prison staff apply the criteria uniformly; the inmates can acquaint themselves with the classification methods and privileges. The text contained in the brochure has also been printed in the prison newspaper "Putevi" ("Roads").

In the coming period, and not later than six months after the start of the application of the Law on the Execution of Penal Sanctions on 1 January 2006, the classification system will be clearly defined in the House Rules of Sremska Mitrovica Penitentiary Reformatory. We will do our best to clearly outline the classification criteria and requirements for upgrading and transfer to a more privileged prison section.

The brochure has evidently eased frustration and made the system more clear. Also, the new House Rules will introduce more detailed standards in this area of execution of prison sentences.

111.- A detailed programme of activities for convicted persons at Belgrade District Prison will be transmitted to the CPT by 15 December 2005.

As for the regime of activities for remand prisoners, the prison authorities will ensure that all remand prisoners spend at least two hours a day outside. With the partitioning of the exercise area, objective conditions have been created for all remand prisoners to stay outside their cells and get fresh air for at least two hours every day. The outdoor exercise area will be equipped with benches and a means of shelter from inclement weather.

Since December 2004, all prisoners have been allowed to have a radio set.

112.- In connection with the CPT's recommendation that all convicted prisoners are offered at least one hour of outdoor exercise every day, please take note that convicts at Sremska Mitrovica Penitentiary Reformatory are granted at least two hours of outdoor activity every day, including at week-ends. Inmates can use that time to exercise or engage in sporting activities at the Prison Sports Centre. They can also use the indoor exercise facility in bad weather. Convicted persons use their two-hour exercise time at the Sports Center three times a week, according to a fixed exercise schedule. Inmates spend two hours every day on average exercising or engaging in sports activities. A physical culture teacher is in charge of exercise and sports activities at the Sports Centre. Both indoor and outdoor exercise facilities have all the necessary equipment for different sports, including a weight-lifting gym.

113.- Juveniles and other remand prisoners at Belgrade District Prison are allowed to speak during outdoor exercise, because strict care is taken when making outdoor exercise arrangements to avoid situations in which remand prisoners involved in related criminal offences would take outdoor exercise in the same group.

115.- In the light of the recommendation to increase the number of staff in re-socialisation services, please note that Sremska Mitrovica Penitentiary Reformatory has submitted a proposal to the Department for a new staff complement, including the recruitment of a specialist in analytical-research activities, evaluation of prisoners' treatment and instruction/advisory work with the staff; the second opening is for a psychologist in the correctional/educational service. We have also sought approval to recruit six more educators, which would meet staffing requirements at present. With the new staff complement, each educator would be in charge of 65 convicts.

A new staff complement, increasing staff levels in all services, has been adopted for Belgrade District Prison. Vacancy announcements have been placed for 40 security guards, one doctor, three medical technicians, one sanitary and one pharmaceutical technician for the health care service, and three skilled maintenance staff. The recruitment procedure generally takes one month.

Also, two more educators were recruited in the re-socialisation service.

118.- As for health care for convicted persons and remand prisoners at Sremska Mitrovica Penitentiary Reformatory, the CPT commented on the low staffing levels and recommended that the number of medical staff be increased.

Four female nurses have been recruited in the meantime, but the big problem remains in how to fill the vacancy for the position of a medical doctor. Although announcements for that position were repeatedly placed, no applications have been received. We remain handicapped in that respect, as the increased workload and the 24-hour working regime definitely require the presence of more doctors.

The recommendation that steps be taken to ensure that prisoners do not have access to medical files and do not distribute medication was implemented immediately, while the CPT visit was still in progress.

119.- The CPT also commented on significant delays in access to specialist care. We want to emphasize here that possibilities for action in that respect are limited because the problem is basically of a technical nature and does not depend on us. Specialist medical care is provided by the Sremska Mitrovica Health Centre and they frequently limit the number of prisoners that can be taken to a specialist because the Centre provides specialist medical care for the entire region of Srem.

Another problem concerns the legal formalities for escorting convicted prisoners to the Health Centre. To surmount that problem, all chronic patients at Sremska Mitrovica Penitentiary Reformatory are seen by a consultant specialist who visits the prison when necessary.

When three additional medical technicians are hired at Belgrade District Prison, the total number will increase to eight, by which the requirement made in the CPT's recommendation will be satisfied.

Belgrade District Prison has a contract with the Military Academy Hospital in Belgrade for diagnostic and treatment procedures. The decision to conclude such a contract has proven to be very good, as it has significantly improved medical care for the prisoners.

120.- The CPT commented that a psychiatrist does not visit the establishments frequently enough, given the high incidence of psychiatric symptoms among prisoners. We have made the necessary arrangements for specialist consultation, so that at present there are no major delays in that respect. Patients with bouts of acute psychosis are taken to the Psychiatric Ward of the Sremska Mitrovica Health Center.

Upon observing a high incidence of psychiatric symptoms among convicted prisoners at Belgrade District Prison, a decision was taken to hire one full-time specialist in psychiatry.

121.- As for the in-patient clinic at Sremska Mitrovica Penitentiary Reformatory, renovation works started in the past will soon be resumed, in order to improve the premises.

For the purpose of rendering better medical care to convicted persons and remand prisoners, appropriate medical equipment has been obtained and old hospital beds have been replaced.

We took note of the CPT's recommendation to obtain an X-ray machine. This will be borne in mind and action will depend on the availability of funds.

Renovation is under way at Belgrade District Prison to create space for one more in-patient unit, by which working conditions for the medical care service will be significantly improved. An allocation of 1.5 million dinars for new medical equipment has been made in the financial plan for 2006.

122.- As for medical screening of newly arrived convicts and remand prisoners, such screenings are conducted only once a week because of the shortage of doctors, and more frequently in exceptional cases (eg. in serious cases or if there are visible changes on the newly-admitted inmate's body). We have resorted to such practice because it is impossible for a doctor to screen several patients at the same time and on several locations.

Until we hire more medical doctors, as recommended, we will designate one fully qualified nurse to perform medical screening on admission and report to a doctor, in order to render appropriate medical care to all newly arrived inmates.

123.- The CPT's recommendation concerning the structure of a medical examination contained in paragraph 91 was accepted in its entirety. Appropriate instructions were given to the medical care service to implement the recommendation.

124.- Medical confidentiality is fully respected at Belgrade District Prison. The exceptional observed in the Special Detention Unit was discontinued.

125.- The comment made in this paragraph concerns the presence of prison officers during medical examinations in Sremska Mitrovica. This practice has been practically abandoned immediately following the CPT visit. Prison officers are now present during medical examinations only in exceptional cases, when the medical staff so requires.

126.- The serological status of HIV positive prisoners is kept confidential at Belgrade District Prison. Prisoners sometimes abuse the system by falsely reporting that they are HIV positive in an attempt to get privileges, but subsequent medical examinations always reveal such schemes. The prison authorities have the obligation to separate remand prisoners suffering from a contagious or transmissible disease from other inmates, under Article 12 of the Regulations on House Rules in Remand Prisons ("Official Gazette of the Republic of Serbia", No. 35/99).

127.- The CPT commented that health care services provided to inmates were generally of a low quality. The quality of health care for convicted persons and remand prisoners could be significantly improved if certain conditions were met. By this, we primarily imply the recruitment of adequate numbers of skilled medical staff, both nurses and medical doctors, whose round-the-clock presence would help tackle every problem immediately.

With an improvement in the general economic situation, possibilities would be increased for obtaining new medical equipment and keeping up with the latest achievements in the diagnostic and treatment procedures. This would in turn raise the level of medical care for the convicted persons and remand prisoners.

Concerning the recommendation that a comprehensive strategy to significantly improve the quality of health care offered to prisoners should be implemented, please note that a coordinated action in that respect would be required throughout the system - from the prisons to the Ministry of Justice and Ministry of Health..

130.- At Belgrade District Prison, access to shower and clothing/bedding for inmates committed to solitary confinement on disciplinary grounds is the same as for other convicts.

132.- No comment will be made on the statement that doctors should not be obliged to certify that an inmate is fit to undergo punishment on disciplinary grounds, because this matter is regulated by the Law on the Execution of Criminal Sanctions.

The fact remains that a doctor's approval is in a way tantamount to punishment and that it undermines the doctor-patient relationship.

Under the law, a doctor is obliged to visit a prisoner placed in solitary confinement every day. However, in a situation when we have just one full-time doctor, physical and mental strain of such daily visits would simply be unbearable. The problem is identical as in the case of medical examination on admission of newly arrived inmates. We hope that the above mentioned requirement will be met when staff levels are increased.

133.- In the coming period, the Department will take measures to equip each disciplinary cell with a chair and table. We agree with the CPT's assessment that conditions in cells used for solitary confinement at Belgrade District Prison are not proper. No renovation would help improve these conditions. We are of the opinion that these cells should no longer be used and that inmates serving disciplinary punishments should be confined to Section 5-2. Once the renovation of the Special Detention Unit is completed, conditions will be created to use cells in that section for solitary confinement.

134.- Disciplinary punishment is not inflicted on inmates who sleep during the day, but on inmates who sleep outside the regular hours. This punishment is in accordance with Article 12 of the Regulations on House Rules in Closed Prisons, under which inmates shall be disciplined when they engage in "other unallowable activities that disturb life and work in prisons". Convicted persons are allowed to take an afternoon rest between 3 and 5 p.m., during which time they can sleep if they wish so.

After checking the allegation that juveniles were occasionally denied outdoor exercise, we found that this was not true, because all remand prisoners, without any exception, are granted outdoor exercise and nobody, starting from the governor to shift commander, has the power to deny that right to inmates. If the CPT has concrete evidence to corroborate the allegation, we would appreciate if it could be presented to us so that we can establish who is responsible for the breach of professional duty.

135.- The cell mentioned in this paragraph is situated in the Remand Section. At the CPT's recommendation, it will not be used until metal rings with handcuffs are replaced with leather belts.

136.- As for the comment that prison guards were carrying batons in a visible manner, please note that the Rules on the Uniform and Rank Markings of Prison Guards stipulate that a prison guard shall wear a belt as part of his uniform and that a rubber baton shall be worn on the belt.

140.- We took note of the CPT's recommendation to facilitate access to the telephone for prisoners. Convicted persons now have the right to make three contacts with the outside world a week. In extraordinary circumstances, they are granted one more contact. To avoid queuing, a schedule has been made for the use of the telephone.

The CPT's comment that only one pay-phone was available for more than 700 detainees is not valid because remand prisoners are forbidden by law to use the telephone. The pay-phone is exclusively used by convicted persons, whose number at present is about 70.

141.- The censorship of the convicted persons' correspondence with their families and friends has been reduced to situations when it is absolutely necessary, i.e. when reasonable doubt exists that a correspondence may contain illicit contents or that it may disturb citizens. In such situations, educators open the correspondence in the presence of the convicted person and any illicit content found in it is duly recorded. To protect the privacy of correspondence, measures have been taken to have the correspondence distributed only by the educators.

142.- Please note that contacts with remand prisoners have to conform strictly to Article 75, paragraph 2, of the Law on Criminal Proceedings, under which communication is supervised only by observation and not by listening in a room specially designated for that purpose.

Authorities at Belgrade District Prison strictly adhere to the law as regards communication between a lawyer and his client. The communication is supervised only by observation and not by listening.

145.- In acknowledgment of the CPT's recommendation that convicted persons who are foreign nationals should receive relevant information in their own language, the following measures have been taken: a translators' section at the Culture Centre are translating information brochures into the languages spoken by foreign prisoners. The brochures will outline the main points of the regulations guiding the execution of prison sentences, House Rules, the prison's regime, prisoners' rights and duties and the complaints procedure.

148.- Uniform and items that prison guards wear when on duty are defined by the Law on the Execution of Criminal Sanctions. A baton is a component part of their uniform and the law stipulates that it be displayed in a visible manner. It is considered that the entry of prison staff, above all custodial staff, into the living areas of patients in the Prison Hospital is necessary for security reasons and in order to prevent possible incidents.

149. – The suggestions made in paragraph 90 of the Report have been accepted.

150 – 155. – After the CPT visit and ensuing recommendations, Belgrade Prison Hospital has totally abandoned the practice of using chains and padlocks as means of restraining patients. The staff now use special leather belts. The belts that were used before have been modified to suit different situations when restraining is necessary. Staff of the Prison Hospital visit other psychiatric establishments, including the Military Academy Hospital in Belgrade, to learn how they cope with the problem of restraining patients.

Belgrade Prison Hospital has also accepted the CPT's recommendation that a clearly defined policy on the use of means of restraint be drawn and that every instance of restraint should be recorded in detail, as well as all other suggestions made in paragraph 154.

A special room in renovated A Ward is used to accommodate restrained patients.

Please note that restraining has never been applied as a punishment at Belgrade Prison Hospital, as mentioned in paragraph 154.

A very precise register of every instance of the physical restraint of patients is kept at Belgrade Prison Hospital and restraining is applied only when expressly ordered by a doctor. The entry on the use of means of restraint is also made in the patient's medical file, in the shift log book kept by medical technicians and doctors on duty, as well as in a special custodial service form which has to be signed by a doctor. Physical restraint is used as a means of last resort, when all other attempts to calm an agitated patient have been exhausted. Time limits are fixed by a doctor, depending on the state of agitation of the patient concerned.

156.- As part of renovation works at Belgrade Prison Hospital, Ward A has been generally refurbished and conditions significantly improved.

Belgrade Prison Hospital is aware of the problem of lice infestation and it is doing everything to resolve the problem to the best of its abilities. The services of a company specializing in disinfection and pest control have been contracted for this purpose.

At present, there are five incontinent patients at the prison hospital (two at B Ward and three at E Ward) and diapers are provided to all of them.

157.- The recommendations made in paragraph 157 are accepted and measures are taken to implement them to the best of our abilities.

161.- The limited capacity for occupational activities at Belgrade Prison Hospital does not allow for involvement of a greater number of patients. The planned renovation of the prison hospital will provide for a separate occupational therapy area at every ward. Moreover, plans have been made to expand the common occupational activity area in the hospital.

163.- TB patients are accommodated on the fourth floor of the prison hospital, where the Psychiatric Wards are situated. A separate room for TB patients is designated in renovated Ward A. The same was done in the Female Ward.

TB patients at the Internal Medicine Ward are also completely separated from other patients. There are 10 TB patients at Belgrade Prison Hospital at present.

164.- Belgrade Prison Hospital regularly informs courts about seriously ill remand prisoners and persons under mandatory psychiatric care. The Governor of Belgrade District Prison proposes suspension of the execution of prison sentence for convicted prisoners who are terminally ill and they too have the right to apply for the suspension. The decision rests with the Director of the Department for the Execution of Penal Sanctions, who before making the decision consults the Prison Hospital specialist team. A review of the applications filed on this ground confirmed that the Governor has always granted suspension requests for terminally ill patients

165 – 167.- A new Regulations on Staff Complement has been proposed, under which all staff levels should be increased by 50%. The procedure for its adoption is currently under way.

The medical staff at Belgrade Prison Hospital is closely following the latest developments in medicine by attending training courses, seminars, medical symposiums and congresses.

Director

Dragoljub Loncarevic

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B e l g r a d e

**THE COUNCIL OF MINISTERS OF SERBIA AND MONTENEGRO
MINISTRY OF HUMAN AND MINORITY RIGHTS**

B E L G R A D E

In reference to your communication, and in connection with the visit of the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), as well as in accordance with Article 10, para. 1 of the European Convention on the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, and/or in connection with the Report of the Council of Europe Anti-Torture Committee – which was adopted by CPT at the 56th meeting held from March 7 to 11, 2005, and which has been submitted to the Council of Ministers of Serbia and Montenegro – the Ministry of Human and Minority Rights, please be informed about the following:

The Ministry of Health of the Republic of Serbia has considered the report of the Council of Europe Anti-Torture Committee. We have no remarks to the abovementioned report, except for the part relating to the concern expressed by the CPT regarding the substantial use of sedatives and means of physical restraint. Namely, the Council of Europe Anti-Torture Committee visited the Institute of Neuropsychiatric Diseases "Dr Laza Lazarevic" in Belgrade, in the period from September 16 - 28, 2004, within the framework of its visit to Serbia and Montenegro.

The statement made during the above visit, which was repeated in the Report itself, was that the Delegation had neither heard nor noticed any complaints, either from the employees in the above medical institution or directly from the patients, about the patients being deliberately maltreated. The only concern expressed by the CPT relates to the substantial use of sedatives and means of physical restraint.

I

We would like to inform you on this occasion that the National Assembly of the Republic of Serbia adopted the Law on Health Care late in 2005, ("Official Gazette of the Republic of Serbia", No. 107/05), which took effect on December 10, 2005.

This Law on Health Care regulates in detail the field of "Human rights and values in health care and patients' rights". Among the rest, the Law regulates *the right to patients being informed*, specifying that the patient has the right to obtain timely information he/she needs from the competent medical worker in order to be able to decide whether or not to accept a proposed medical measure.

The above information has to include:

- 1) a diagnosis and prognosis of the disease;
- 2) a brief description of the proposed medical measure, its objective and benefit, as well as its duration and the potential consequences of taking or not taking the proposed medical measure;
- 3) type of potential risk and its probability, painful and other effects, either side or lasting ones;
- 4) alternative methods of treatment;
- 5) possible changes in the patient's condition after being subjected to the proposed medical measure, as well as potential indispensable changes in the patient's lifestyle;
- 6) effect of the drugs and potential side effects of that effect.

The competent medical worker is obliged to provide this information even if the patient does not request it.

The competent medical worker is obliged to provide this information orally and in a manner understandable to the patient, taking care of the patient's age, education and emotional state. If the patient is not familiar with the language which is in official use in the territory where the medical institution is situated, he/she has to be provided an interpreter in accordance with the regulations on the official use of the language and the alphabet, and if the patient is deaf and dumb, he/she must be provided an appropriate interpreter.

The patient may relinquish his/her right to being informed, except for the information about the proposed medical measure being necessary and about its involving substantial risk, and/or the information that being subjected to the measure is risky.

Exceptionally, the competent medical worker may not disclose the diagnosis, the course of the proposed medical measure and its risks, or he/she may understate the information about it if there is a serious threat of such information significantly impairing the patient's health. In such a case, the information may be provided to a member of the patient's family.

The patient has the right to be informed and to inspect the costs of treatment.

The competent medical worker is obliged to enter in the medical record, the data about his having informed the patient and/or his/her family member about all the above data.

Also, the Law on Health Care provisions regulate in detail the patient's rights to privacy and confidentiality, independent decision taking and consent, as well as to inspecting his/her medical documentation, and to confidentiality of the relevant data (Art. 30-37):

The right to privacy and confidentiality

Every patient is entitled to confidentiality of all personal information that he/she has communicated to the competent medical worker, including the information relating to his/her state of health and potential diagnostic and therapeutic procedures, as well as having the right to the protection of his/her privacy during the course of diagnostic examinations, visits to an M.D. specialist and undergoing medical-surgical treatment as a whole.

The competent medical worker is forbidden to communicate to other persons the patient's personal data.

The patient's check up and the procedure of subjecting the patient to medical measures may be attended only by medical workers and/or medical assistants.

The patient may also issue consent regarding the presence of other persons during his/her check up and during the course of medical measures being applied on him/her.

The right to independent decision taking and giving consent

The patient has the right to freely decide about anything that concerns his/her life and health, except in the cases where that poses a direct threat to the life and health of other persons.

As a rule, no medical measure may be taken with respect to the patient without the patient's consent.

A medical measure contrary to the will of the patient and/or the representative of a legally incompetent patient, may be undertaken only in the cases specified by the law and which are in accordance with medical ethics.

The patient may give his/her consent to a proposed medical measure either explicitly (orally or in writing), or tacitly (if he/she is not explicitly opposed).

A consent which has not been preceded by the necessary information in accordance with this Law shall not be binding, and in that case the competent medical worker who takes the medical measure shall bear the risk of its adverse consequences.

The patient may revoke his/her consent to a proposed medical measure orally, provided that its implementation has not commenced, under the terms prescribed by this Law.

The patient has the right to appoint a person who will give consent on his/her behalf, and/or who shall be informed instead of the patient about the medical measures being taken, in the event the patient becomes incapacitated in terms of making a decision about giving consent.

The patient has the right to refuse a proposed medical measure even if his/her life is being saved or maintained by such measure.

The competent medical worker is obliged to inform the patient about the consequences of the patient's decision to refuse the proposed medical measure and he/she is obliged to ask the patient to issue a written statement which is to be kept in the medical treatment records, and if the patient refuses to issue the written statement, an official note is to be made about that.

The competent medical worker is obliged to enter in the medical record, the data about the patient's consent to the proposed medical measure, as well as data about his/her rejection of such a measure.

An urgent medical measure may be undertaken without the patient's consent, in the case of a patient who is unconscious or who is unable to state his/her consent for other reasons.

If the patient is unconscious or is unable to state his/her consent for other reasons, medical measures may be undertaken with respect to him/her in the medical institution on the basis of the findings of the Consilium.

If the patient is a minor or if he/she is legally incompetent, he/she may be subjected to a medical measure following information provided to, and consent issued by, his/her legal representative (parent, foster parent or guardian).

The competent medical worker who considers that the lawful representative of the patient does not act in the best interests of the child or the legally incompetent person, shall immediately inform thereof the guardian authority.

A child who has turned 15 and who is capable of reasoning, may issue consent to a proposed medical measure on its own.

A legally incompetent patient ought to be personally involved in deciding on the consent to a proposed medical measure, in accordance with his/her maturity and reasoning ability.

The right to inspecting the medical documentation

The patient has the right to inspect his/her medical documentation.

In the event where the patient is a newborn child or a minor, the parents, the guardian and/or the legal representative have the right to inspect the medical documentation.

The competent medical worker is obliged to keep the medical documentation in a regular manner and in accordance with the Law, as well as to keep a record of all the medical measures taken with respect to the patient, and particularly the anamnesis, diagnosis, diagnostic measures, therapy and therapy results, as well as the advice given to the patient.

Exceptionally, the patient's family members may have the right to inspect the medical documents of their family member if such data are of significance for their own treatment.

The right to secrecy

Medical documentation data fall under the category of patient's personal data and are treated as a business secret.

A business secret has to be kept by all medical workers and medical assistants, as well as other persons employed in medical institutions, private practice, and/or health insurance organizations where the patient is medically insured, who have access to such data and who need the data in order to be able to perform their legally defined responsibilities.

Data about human substances on the basis of which it is possible to determine the identity of the person they belong to, is also considered a business secret.

The competent medical workers and medical assistants as well as other persons, may be relieved of the duty of keeping a business secret only on the basis of a written or another clearly and unambiguously stated consent by the patient or by court decision.

If a patient has issued his/her consent, the competent medical worker may communicate the data about the patient's state of health to an adult member of the patient's family.

The competent medical worker may communicate the data about the state of health of the patient to an adult member of his/her family also where the patient has not given his/her consent and where communicating the data about the patient's state of health is necessary in order to avoid the risk to the health of the family member.

The patient's medical documentation data and/or the data in his medical record, may be presented for inspection as well as in the form of a note and/or extract from the medical documents, only at the request of judicial authorities, guardian authority, health insurance organization, statistical authority where this is prescribed by the Law, other legally authorized medical institutions, as well as at the request of other authorities and organizations where this is prescribed by the Law.

The data have to be submitted as a professional secret.

Persons who dispose of the data in the medical documentation without authority to do so, and/or without the patient's consent or the consent of an adult member of the patient's family, and who disclose such data to the public without authority to do so, shall be liable for disclosing a business secret in accordance with the Law.

We would like to note that medical institutions are subject to supervision carried out with respect to the legality of their operation as well as to inspection supervision by medical inspectors of the Ministry of Health. During the course of his/her supervision, a medical inspector is obliged to record in the official records kept on that occasion, any irregularities he/she has detected, and to issue a decision ordering measures, actions and determining deadlines for the execution of the measures ordered.

II

The provisions of the Law on Health Care (Article 44) regulate the procedure of mandatory referral of patients to a psychiatric institution. Namely, if a physician and/or an M.D. psychiatry specialist and/or a neuropsychiatry specialist, estimates that the nature of the patient's mental condition is such that it may threaten the patient's life or the life of other persons or property, he/she may refer the patient for hospitalization, and the competent M.D. in the appropriate hospital-type institution shall receive the patient for hospital treatment without the patient's consent, in accordance with the Law, provided that the day following the patient's admission the Consilium of the respective hospital-type institution decide whether to keep the patient for further hospital treatment or not.

The hospital-type institution is obliged to inform the competent court about the above mentioned admission of the patient within a term of 48 hours from the date of admission of the patient.

Also, the Law on Health Care grants authority for a special law to regulate the manner and the procedure, as well as the organization and the conditions of treatment of mental patients, and/or the hospitalization of these persons in hospital-type institutions.

We would like to point out here that the National Mental Health Committee established by the Minister of Health, has submitted its working version of the National Policy in the Field of Mental Health including an Action Plan, as well as the working version of a Draft of the Law on Mental Health.

The adoption of the National Policy in the Field of Mental Health by the Government of the Republic of Serbia including the Action Plan has been planned for the second quarter of 2006, while the adoption of the Draft of the Law on Mental Health is expected to take place by the end of June 2006 (the second quarter of 2006), following which it is to be forwarded to the National Assembly of the Republic of Serbia for further reviewing.

The National Strategy in the field of mental health is to regulate issues relating to legislation and protection of human rights in this field, organization of medical service, prevention of mental disorders and enhancement of the mental health of the population, human resources education and research work, improvement of the quality delivered, and cooperation among different departments, as well as of the information system, and other essential issues in this field.

III

The Law on Health Care regulates the field of both internal and external professional work quality checks. External professional work quality checks may be regular or extraordinary. Regular external professional work quality checks are organized and implemented by the Ministry, on the basis of the annual plan for checking the quality of professional work, adopted by the Minister. Extraordinary external professional work quality checks will be implemented by the Ministry at the request of a citizen, business company, institution, health insurance organization, or a state authority. Applications have to be submitted to the Ministry, which is obliged to consider the application and inform the applicant on the facts established. We would like to point out that medical institutions, private practice, as well as medical workers and medical assistants, are obliged to cooperate with professional supervisors, as well as to submit to them all the data needed and other documents required for carrying out regular and extraordinary external checks of the quality of professional work.

Regular and extraordinary external checks of professional work quality are to be carried out by professional supervisors from the list of supervisors defined by the Minister.

A professional supervisor appointed for carrying out regular and extraordinary professional work quality checks has to have not less than the same degree of professional qualifications and/or scientific title held by the professional head of the respective organizational unit or service where the supervision is being conducted and/or not less than the same degree of professional qualifications held by the medical worker whose professional work is subjected to the quality check.

The supervisors who are on the list of supervisors are obliged to perform their regular and extraordinary external professional work quality checks in accordance with modern scientific achievements and the professional code of ethics.

The supervisors on the list of supervisors may not refuse to take part in the implementation of the procedure of regular and extraordinary external professional work quality checks.

In the procedure of carrying out external professional work quality checks, supervisors have to draw up a report about the professional work quality check, specifying the defects and shortcomings noted with respect to professional work, as well as their professional opinion about the potential consequences for citizens' health, which report has to be submitted, within a term of 15 days from the date of completion of a regular or an extraordinary external professional work quality check, to the Minister and the medical institution and/or the private practice, as well as to the competent medical profession chamber, if a medical worker has been subjected to professional work quality check.

During the course of the performance of the regular and the extraordinary external professional work quality checks, supervisors are obliged to provide professional advice and proposals for eliminating the failures in the operation of the medical institution, the private practice, the medical worker, and/or the medical assistant.

In their report, the supervisors are obliged to propose to the Minister measures to be taken in order to eliminate the shortcomings that have been detected in the professional work of the medical institution, private practice, medical worker and/or medical assistant examined.

After considering the report and the measures proposed by the supervisor, the Minister is obliged to adopt a decision on the basis of which he/she can:

- 1) issue a temporary prohibition of the performance of certain tasks in a medical institution and/or private practice, in full or in part;
- 2) issue a temporary prohibition of the operation of the organizational part of a medical institution and/or private practice, in full or in part;
- 3) issue a temporary prohibition of the operation of a health institution and/or private practice;
- 4) propose to the competent chamber to withdraw the license from a medical worker, under the conditions prescribed by this Law.

A temporary prohibition will be in effect until the elimination of the reasons based on which the prohibition was pronounced.

Acting on the basis of the report and the measures proposed by the supervisor, as well as the Minister's proposal in the event of a failure detected in the professional work of a medical worker or a violation of the principles of professional ethics, the competent chamber may withdraw the license for independent work from such medical worker and/or the chamber may pronounce one of the disciplinary measures prescribed by the Law regulating the operation of medical profession chambers.

We would like to note that **the performance of the extraordinary external professional work quality check at the Institute of Neuropsychiatric Diseases "Dr Laza Lazarevic"** in Belgrade, based on the Decision No. 531-01-61/2006-02 of February 24, 2006, is in progress, and that it will be implemented by a committee of supervisors from reference medical institutions. Their task is to establish the adequacy of the measures, activities and actions in the treatment of patients, the organization of work and the procedures adopted in receiving health care, as well as the conditions regarding the staff, equipment in the premises and drugs with respect to the prescribed conditions and standards for performing medical activities and providing medical services. After obtaining the findings of the supervisors' committee and the proposed measures, the Minister will issue an instruction for taking appropriate measures for eliminating the shortcomings identified, in line with the Law on Health Care.

Following the completion of the procedure of extraordinary professional work quality check, this Ministry will submit all the relevant documents, the established state of facts and the measures ordered for eliminating the shortcomings, to the Council of Europe Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT).

IV

During the course of 2004 and 2005, the Ministry of Health allocated funds from the budget of the Republic – the part pertaining to the Ministry of Health – to the Institute of Neuropsychiatric Diseases "Dr Laza Lazarevic" in Belgrade, for the following purposes, namely:

- 1) in 2004, the total amount of the funds was **dinars 4,350,500.00**.
 - execution of works on the construction and installation of windows and doors in the facilities in Padinska Skela – dinars 500,000.00;
 - maintenance and servicing of thermal engineering and thermal-energy facilities and installations, rehabilitation and reconstruction of toilet and bathroom facilities, wall painting works, supply and installation of a new boiler – dinars 3,284,444.80;
 - payment of liabilities in default in 2004 – dinars 565,555.20.
- 2) in 2005, the total amount of the funds was **dinars 8,300,000.00**.
 - reconstruction of the electric power sub-station in the facility in Padinska Skela, renovation of the "C" ward, and adaptation of the admission ward in the facility in Visegradska Street in Belgrade – dinars 2,300,000.00;
 - repair of the roof and attic in the facility in Visegradska Street in Belgrade – dinars 6,000,000.00.

V

The Ministry of Health of the Republic of Serbia has assumed the obligation of submitting to the Council of Europe Anti-Torture Committee (CPT) all the necessary reports and findings of the medical inspectorate, and the medical patients ombudsman, the report of the Supervisors' Committee on the external professional work quality check implemented, including the measures ordered, *subsequently*, i.e. following the adoption of **the final version** of the Report of the Council of Europe Anti-Torture Committee (CPT) by the Government of the Republic of Serbia and/or following the removal of the designation “**secret**” from the above Report.

STATE SECRETARY

Nevena Karanovic, M.D. Ph.D.

III. RESPONSES OF THE AUTHORITIES OF THE REPUBLIC OF MONTENEGRO

A. Ministry of Interior



**Government of the Republic of Montenegro
DIRECTORATE OF THE POLICE
Office of the Director of the Police
Nr:03 051/06-7375/2
Podgorica, 03.03.06**

SUBJECT : CPT Report

The Ministry of Interior would like to express its full willingness to respect the attained level of protection of human rights and freedoms guaranteed by the International documents and National Legislation in applying of legal authorities.

We are obliged to do so according to the Constitution of the Republic of Montenegro, which also by provisions of Article 3, §1 and §3, regulates: “Respect of human personality and dignity is respected in the criminal and any other proceedings, in the case of deprivation or limiting of freedom and during of the execution of sentence.

Any violence against a person deprived of freedom or with limited freedom, likewise the extracting of confession, is forbidden and punishable.

Nobody can be subject to torture, humiliating punishment and treatment.”

Respecting of the personality and protection of integrity of persons deprived of freedom is precisely regulated by the Law on Criminal Proceedings (Official Gazette of The Republic of Montenegro Nr.71/03), provisions of Article 88, §7 and §8, which regulate:

7) “The accused person will be interrogated with decency and with full respect of his/her personality.

8) Force, menace, deceit, promise, extortion, exhaust or other similar means must not be used against the accused person in order to reach his/her statement, confession or any fact which might be used against him/her as evidence.”

Further, as a criminal act will be punished any extortion of evidence, concretely according to the provisions of the Criminal Law, Article 1666, § 1, which regulates: “An official person who in performing his/her duty uses force, menace or any other device or way in order to extract a confession or some other statement from accused person, witness, court expert or other person will be punished by three months to five years of prison.

For qualified for of this criminal act is foreseen punishment between two and ten years of prison.”

We would like to stress the fact that Montenegro in its national legislation provides a special mechanism for protecting the rights of persons deprived of freedom, by adopting the Law on Protection of Human Rights and Freedoms. According to the regulation from Article 1 of this Law is provided that the “Protector of Human Rights and Freedoms (Ombudsman) protects human rights and freedoms which are normally guaranteed according to the Constitution, law, ratified international agreements on human rights and generally adopted rules of the international law if they are violated by the act, acting or non-acting of the State Organs, organs of the Local Government, Self-Government and Public Services and other bearers of the Public Authorities.”

According to the Law on Police (Official Gazette of Montenegro Nr.28/05), the authorities and duties which police officers can take over in performing police affairs are precisely defined. Until adopting of the Law on Police, police authorities were regulated by legal acts.

Also, an innovation is the adopting of the Police Code of Ethics, which is an integral part of this Law.

In accordance with European standards, the Law on Police regulates in a precise way the limits of the police authorities and especially those which mean violation of human rights. By Article 11 to Article 67 are regulated authorities applied by the police officer. Here are at stake the principles based upon the norms of the international law and national law which are applied in modern security systems.

That is, based upon precise definition of the Police authorities and procedure for applying of each of them, are created pre-requisites for establishing of mutual trust between citizens and the police, which means professional work and training, and in such a way the respecting of human rights. In fact, according to the provisions of the Law on Police is provided that the police can (in the preliminary proceeding) detain a person for a maximum of 48 hours from the moment of deprivation of freedom, in order to collect information, a person for whom there is founded suspicion that he/she is the perpetrator of the criminal act which is prosecuted «ex officio» and who is called in as a suspected person.

A lawyer is entitled to be present since the moment of deprivation of freedom and to take all necessary actions on behalf of the person. The rights of persons deprived of freedom are defined by the Article 5, § 1 of the Law on Criminal Proceedings.

A significant innovation foreseen by the Law on Police is the fact that control of the work of the Police is provided through the Parliamentary, Civil and Internal level.

On the basis of the above-mentioned, we can conclude that with the better technical equipping which we expect from the relevant international authorities, the Ministry of Interior already disposes with the established legal prerequisites for respecting of standards defined according International documents.

Aiming preventing of abusing of authorities, mistreatment and other forms of torture, MoI organizes police trainings where special attention is paid to applying of the police authorities, legal and human acting by the police in taking official action according to the Law on Police and Code on Police Ethics.

Furthermore, in all organizational units of the MoI are regularly performed analysis of proceeding and using of the coercion devices and in case of exceeding of authority and other abuses disciplinary, infraction and criminal measures are undertaken.

During 2004, owing to the fundamental suspicion that they committed the criminal acts which are prosecuted «ex officio», criminal proceedings against 68 officers was initiated, out of them against 9 officers for the criminal acts against life and body, 5 officers for the criminal acts against freedom and human and rights of citizens, 3 officers for criminal acts against people's health and 26 officers for the criminal acts against official duty (25 abuses of official position). During the same period, disciplinary proceedings against 272 officers was initiated, because of serious violations of labour obligations from the Article 57 of the Law on Internal Affairs and against 408 Police officers because of committed non-serious violations of work duties. The coercion devices were used in 51 cases, out of them physical force was used in 46 cases and the combination of physical force and stick in 4 cases. Physical force was legitimately used in 43 cases, while in 3 cases the using of physical force is estimated as illegitimate, and against responsible officers are undertaken measures for establishing of the disciplinary responsibility. All four cases of combined use of physical force and stick are estimated as legitimate. Out of 223 petitions-complaints of citizens regarding treatment by police officers, 174 complaints are estimated as unfounded while 49 complaints are estimated founded and against responsible officers were undertaken penal measures.

After oral announcement on the omissions noticed during the visit of members of CPT, the Ministry immediately undertook activities for their elimination. In such a way, by telegram Nr.09-1324 dated 10.06.04 , which was sent to all organizational units, was ordered:

1. to observe laws in the proceedings of deprivation of freedom and detention of persons,
2. to remove all non-standard and unmarked objects from the premises of MoI which could be used for torture,
3. to inform all police officers about the provisions of the Convention on Prevention of Torture,
4. to provide hygienic conditions in the premises for detention of persons,
5. to keep correctly a register of detained persons and also establish a file for the each detained person.

Concrete measures were undertaken in order to eliminate ascertained irregularities in accordance with material-financial capabilities .Thus, construction and technical adaptation of premises for detention of persons was performed in all police centres and police departments except for the police organ in Šavnik, PO Plužine, PO Danilovgrad and PO Mojkovac.

Also, premises intended for performing interviews with detained persons are equipped. The problem regarding persons deprived of freedom is also solved in such a way that resources are provided from the operational financial resources which are on disposal of the Chiefs of the operational Units, and in cases where exist restaurants, to the persons deprived of freedom is provided better and richer diet.

During supervising and control visits and work meetings from the all Police members was requested the need for the consistent and full observing of legal solutions regarding deprivation of freedom and detention.

We estimate that regarding this issue a significant progress is made and that persons deprived of freedom have all rights according to the Law.

(seal)

**DIRECTOR OF THE DIRECTORATE
OF THE POLICE**

Veselin Veljović, sgd

B. Ministry of Justice

Republic of Montenegro
GOVERNMENT OF THE REPUBLIC OF MONTENEGRO
MINISTRY OF JUSTICE
No.03-740/06
Podgorica 21.02.2006

TO: THE MINISTRY OF HUMAN AND MINORITY RIGHTS

BELGRADE

Regarding the Report to the European Committee for the Prevention of Torture and Inhuman and Degrading Treatment and Punishment may we kindly advise that the same has been delivered to the **Institution for criminal sanctions of RCG and Special hospital of psychiatry in Kotor** (enclosed to the letter No.03/740/06 dated 08/02/2006), with a request to comment, the soonest possible, the statements in the report, if any. Given the fact that the above mentioned authorities had provided certain comments before, we annexed to this letter the letters No.199 dated 13/02.06 and No.05.1829/1 dated 20.02.2006, containing the mentioned comments.

Concerning the allegations under *item 336* of the Report (Part C - *Special psychiatric hospital*), we wish to make the following statement:

The Law on execution of criminal sanctions of RCG stipulated that the control of legality of execution of security measure of obligatory psychiatric treatment and hospitalization in a health institution shall be carried out by the Ministry of Justice. (*The Control is carried out by an authorized employee*). Certain difficulties have been encountered in carrying out the control, which rendered the full scope of control impossible. Namely, the need has been recognized for upgrading the normative part of the execution system within the measures mentioned by approving more detailed regulations for the implementation of that measure, which was defined by the mentioned law and the competence of the administrative authority in charge of health affairs.

Fully aware of the significance of more detailed regulations in the field and the need to upgrade the control function relative to the implementation of the subject security measure, we have to streamline our activity to the Ministry of Health of Montenegro concerning communication on drafting the regulations discussed here. Namely we requested from the Ministry of Health to inform us of the status of obligation of that Ministry, as defined in the Law on the execution of criminal sanctions, namely the obligation to pass lateral regulations for the implementation of the security measure of obligatory psychiatric treatment and hospitalization in health institution (letter No.04/2174/04 dated 18.05.2004). Having been informed that the drafting of the subject regulations was among the activities planned by the Ministry of Health of RCG, we urged the Ministry to speed up the preparation of those regulations, in view of the importance of the matter to be dealt with (letter No.04/2174/04 dated 20.07.2004). Further to the mentioned appeal for urgent action we were informed that the Health Ministry of RCG formed the commission to write the draft Law on the protection of the rights of the mental patients, for the sake of comprehensive legal solution and detailed regulations for the implementation of the said security measure.

Given the fact that the Law on the protection of mental patients and the exercise of rights of such patients was approved on 24 May 2005 and entered in force on 1 January 2006 it can be concluded that the promulgation of that Law considerably improved the system of execution of security measure of obligatory psychiatric treatment and hospitalization in a health institution supplemented the underlying requirements for proper regulation of the matter.

Yours sincerely,

Assistant Minister
Branka Lakocevic

Enc.: as mentioned above

Republic of Montenegro
Ministry of Justice
Podgorica

Coat of Arms
Republic of Montenegro
Government of the Republic of Montenegro
INSTITUTE OF EXECUTION OF CRIMINAL SANCTIONS

No.:05/1829/1
Podgorica, 20.02.2006

MINISTRY OF JUSTICE
Mrs. Branka Kalocevic

Re: Your letter No.03-740/06 of 08.02.2006

Further to your letter concerning the findings of the European Committee for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment, namely the activity of the Institute which under the subject report were taken to eliminate the deficiencies spotted by CPT we herein provide the following replies:

• **256**

The special hospital, as defined by the Law on execution of criminal sanctions (ZIKS), since the visit of CPT, was provided with medical equipment and furniture and on 13 January 2006 a part of the hospital, housing also the sentenced persons infected with contagious disease, and a number of addicts of psychotropic substances from KPD, started its work. The onset of the function of this part of the hospital was to provide special medical treatment to such persons, and prevent the spread of contagious diseases among the prison population in KPD.

Since in the past years the number of convicted addicts significantly increased, who carry the risk of presence of infective diseases and the consequences of their way of life and behavior, primarily of hepatitis B and C and HIV virus, we considered that it was necessary to open counseling services to help educate the convict population, against the transmission of diseases and for the possibility of protection. In cooperation with NGOs, Youth Culture Center-Juventus and the Montenegrin society against AIDS-CAZAS the equipment of the counseling services for HIV prevention and Hepatitis C is under way within the Special hospital of the closed ward of KPD. The program of peer education with the stress on the program of harm reduction would involve more than 100 convicts. The program covers the education of personnel and specifically the security guards who are in direct contact with the convicted and detained persons.

The capacity of the Special hospital is 30 beds and currently 8 medical technicians are working there (on permanent contracts), one medical doctor internist (permanent), a medical doctor internist when needed, psychiatrist twice a week, dental doctor twice a week. The Special hospital has one ultrasound apparatus, X-ray, equipment for dental surgery and emergency surgical kit.

- **257**

In December 2005 the contract for pavilion "D" was signed and restructuring of pavilion "B" and "C" between the investors: the European Agency for Reconstruction and contractors, worth EUR 1.053,852, all for ameliorating the accommodation for the convicts in the Institution. The works on reconstruction of the pavilion and the construction of new one are ongoing. The contract stipulated 6 months of works, so the completion can be expected at the end of June 2006.

The contract envisaged the construction of a new two story pavilion "D" of 1200 square meters, capacity 144 beds. The reconstruction of the existing facility of pavilion "B" of 998 square meters, will create conditions for the accommodation of 104 convicts, while the reconstruction of pavilion "C" of 272 square meters would secure the conditions for accommodation of 20 convicted persons. It was also planned to build complete external water supply and sewage network with the built in biological filters of affluent waters in KPD and Prison Podgorica.

The significance of construction and reconstruction of those pavilions apart from the improvement of the conditions was mirrored on creating the conditions for categorization and classification of the convicts further to penal categories and standards prescribed under the European Prison Rules, enabling the category of minor persons sentenced to prison term separate from the adults.

- **261**

The Rules on the internal organization and job classification in ZIKS, determined by the Government of RM on 20.01.2005, apart from the internal organization of the Institution, increased the number of staff to enable legal and efficient performance by 32 staff members, relative to the previous classification of whom 28 in the Security sector of the Institute. During 2005 28 novices were employed there.

Drafting of the Rules of internal organization and classification of jobs in the Institution, which should increase the staff by 70 compared to the present number of which 58 jobs in the Security sector. The reason for increase is the necessity to have in place the conditions for legal, successful and effective performance of the jobs enumerated in the document. The internal organization of the Institution is harmonized with the provisions of the Decree on the organization and work flow in the state administration and the Decree on the group of jobs, criteria in internal organization and job classification, nomenclature of jobs on the framework performers in the bodies of state administration,

The anticipated increase of employees in the Institution has been driven by the fact that the number of persons deprived of their freedom has a permanent upward trend and deteriorating structure (ever higher number of maladjusted forms of behavior, psychopathic personality structure, drug addicts, aggressive persons, etc.), as well as by the construction of the new pavilion "D" with 144 beds and reconstruction of the existing pavilions "B" and "C", construction of a modern reception area technically equipped (fire detector, tunnel detector, and the similar), termination of work activities by the convicts in storages, deposits, kitchen, transportation and the similar.

- **262**

In appreciation of the justified remarks of CPT on small number of performers in the Treatment sector the draft Rules of job classification in the mentioned sector anticipated 3 additional performers as follows: 1 special pedagogue, 1 sociologist and 1 education, physical culture and free activities attendant.

With the total number of performers in the Treatment being 17, we have come closer to the European standards, namely one special pedagogue would be assigned per 30 to 40 prisoners.

- **263**

During the visit of CPT failures were observed in keeping the records specified in the Official Gazette of RM, such as lack of updating, incomplete records in the Security service, while minor omissions were found in the records of the Treatment service. In the meantime, special attention has been paid to the records kept in the Security service, specifically those concerned with the coercion practices, book of disciplinary sanctions, book of sequestered objects from the prisoners, book on the daily number of persons serving prison sentence, book on the utilization of vacation outside the Institution, records of received visits, packages and letters, book of visitors, and a list of prison inventory.

It is worth mentioning that the records kept in the Treatment sector were greatly improved thanks to computer programs, so that the data on a prisoner are easily accessible and regularly updated.

In the meantime, the following books were updated: book of appeals and complaints of prisoners, books of communications sent by the prisoner to other bodies that are time limited, book of offering assistance in the Institution; book of assistance received from other authorities; book of persons on pardon, records of changes during the term service; book of deposits by the prisoners and the card of assignments.

- **264**

When several women were employed in the Security service it became possible for female detainees to be guarded exclusively by the guards of the same gender and also further to CPT recommendation video surveillance was installed in female premises in such a way that they were moved to other premises without video surveillance.

- **265**

Following the visit of CPT delegation by end September 2004 the cells for the disciplinary measure of solitary confinement of up to 30 days were closed and disciplinary sanctions are currently executed in the Prison Podgorica in specially adapted premises (meeting the European standards (Cf. item 257).

- **269, 270**

Cf item 257

- **271**

The current area used by prisoners in the closed part of KPD is 1269 square meters and on average it is being used by 280 prisoners which means almost 5 square meters per head, contrary to the standards for the premises accommodating convicted persons. The construction of the new facility and reconstruction of the existing ones will meet the international norms, namely 8 square meter or 20 cubic meters per prisoner.

- **274**

In the course of 2005 much has been done to improve the conditions for the prisoners in Podgorica prison in terms of painting, wiring, rehabilitation of heating system, toilets and the connection to new water supply system, provided for sufficient quantity of water, or better to say pressure enabling prisoner to take regular showers several times a weeks, enough mattresses and bedding.

- **277**

In the semi-opened department of KPD the PC room was adapted and equipped, with five modern PCs. This enabled education for both the employees of the Institute and the prisoners in PC skills. It will enable editing a magazine by prisoners and organization of foreign language courses.

These activities have been undertaken with the view to train the prisoners for post-penal life where employment will be their primary need. At the same time it helps better organize the time of prisoners and fulfillment of statutory obligations by the Institution.

An unavoidable segment of the whole treatment program is the taking prisoners to task. It was found that KPD has no good conditions for prisoner tasks and training of all working able prisoners and that the existing and available manufacturing capacities and resources have not been rationally and sufficiently used. Since taking prisoners to task is the best way of re-socialization the amount of engagement of prisoners was increased from 15% to over 80% in workshops, agriculture and poultry farming.

Carpentry has come to focus of attention because its products used to be famous once but two years ago it went on fire, with all the manufacturing machines and material on stock. The workshop was renovated in civil work part, while the equipment for carpentry is under way under the tender. The significance of equipping and commissioning of this workshop, apart from work for quite a number of prisoners would bring about the conditions to increase production in the Institution.

Sports activities by the prisoners were hardly pursued in the past. The gym was used for other purposes, as a storage. However, it was brought back to its function and equipped with body building devices and table tennis and the prisoners can use it in compliance with the house rules. The importance of rehabilitation of the gym is reflected in providing space for training of security sector personnel within the subject Special physical drill.

- **278**

The regime under which the detained persons are held in Podgorica prison is regulated by the Penal procedure code of Montenegro, which did not stipulate any tasks or other activities for detainees. The draft changes and amendments are under way and we hope this segment of life and work of detainees in prison would be arranged in a better way than now.

- **279**

The institute of classification and re-classification is regulated under the House rules for execution of sentences in KPD which anticipates three regular classifications in the course of a year, namely re-classification, however, besides the regular the director is entitled to make extraordinary reclassification so in 2005 the proposal of the staff for re-classification of prisoners was taken into consideration six times. Participants in the re-classification process are the Treatment sector, Prisoner task sector and Security who analyze in detail every prisoner, from their individual angles, satisfying the principle of individualization as one of the main principles in the treatment of the convicts.

- **280**

Since the National committee for mental health of Montenegro seriously objected to the execution of the measure of obligatory treatment of alcoholics, drug addicts and psychiatric treatment and hospitalization in the Special hospital, pointing to a series of problems and deficiency which render the execution of measures inadequate, the Special hospital was not put to function as originally conceived (Cf. item 256).

- **281**

Within the Special hospital for quite some time no prisoner has been put to task on the job where medicaments or medical documentation would be accessible.

- **282**

An EKG device was procured for the requirement of the Special hospital, 2 sterilizers, dental chair, X-ray machine, refrigerator for medicaments, emergency surgical equipment for small interventions and an ultra sound devices was made available for use.

- **284**

Immediately on admission the prisoners get their medical file recording any health problem of the prisoner from admission till discharge from prison.

Cooperation in the transfer of medical files, with the competent medical institution, apart from sporadic cases has not yet been established.

- **285**

Prisoners non residents, who cannot speak the local language, are attended by interpreter on examination most often using the skill by other persons speaking the language of the non-resident prisoner, and if not than the registered interpreter or court interpreter is invited. So far the language barrier posed no problem in adequate diagnostic procedures and treatment of non-resident convicts.

- **286**

In the reply to item 263, we accentuated the fact that in the meantime most of the records, which were non-existent at the time of CPT visit were established. Special attention was devoted to the records of the disciplinary report and upkeep of the statutory book registering all the data concerning the disciplinary violation charged with during the disciplinary report.

- **287**

With the enactment of the new House rules special attention was devoted to disciplinary accountability of the convicts in compliance with EPR, recommendations and suggestions of the Council of Europe and OSCE, so that the recommendations of then CPT in the report under this item were implemented in the mentioned rules and are observed when disciplinary responsibility of a prisoner is assessed.

- **289**

Cf. item 265

- **290**

Cf. item 257

- **291**

The finding of CPT is correct that the single bedroom D5 at the first floor in the Podgorica Prison at the time of their visit was despicable; the prisoner who was there was moved to another decent room to have it adapted at a later date.

- **292**

Cf. item 263

- **293**

The House rules for prison term service in KPD Podgorica established that a convict shall be entitled, irrespective of classification, to two regular monthly visits for 90 minutes and another two additional visits meaning that each convict may have one visit per week. Whatever the classification group the prisoner is entitled to marital life, for the time being only those married because so says the Law on execution of criminal sanctions; also lack of room allows no possibility for sexual contacts out of a wedlock.

Visits to detained persons in Podgorica prison are governed by Penal Procedure Code of RM, on approval of investigating judge and if need be under his supervision, so there is no sufficient area to differently regulate the regime of visits.

- **296**

By the changes and amendments to the Law on execution of criminal sanctions in keeping with the Standard minimum rules for treatment of prisoners, it is possible for them to complain to the competent court if the decision of the Prison Warden limited any of his rights stipulated under the Law.

The main objective of the reforms of execution of prison term is, inter alia, an aspiration to make the convicts safer and secure during serving prison sentence via rule of law and respect for the basic human rights. To that effect special emphasis was put on regular inspection of services in the organization by a qualified authorized officer appointed by the Ministry of Justice, who takes care that the prison term is carried out in compliance with the Law and supplementing regulations. The Law clearly defined the control over the execution of criminal sanctions inter alia, rights, duties and responsibilities of inspectors, legal grounds, visits and performance of inspectors, obligations of the organization to the inspector, procedure of the organization under the ordered measures and the similar.

The sentenced persons are entitled outside the prison and judicial system to complain to the Ombudsman, under confidentiality guarantees.

Yours sincerely,

Principal
Bozidar Vuksanovic (signed, stamped)

C. Ministry of Health

**To the Government of the
Republic of Montenegro**

Ministry of Justice

Attn.: Assistant Minister Branka Lakocevic

Further to your letter **No/03-74-/06** dated 08.02/2006 and concerning the Report of the European Committee for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment, our comments are as follows:

Further to the part of the report on ill-treatment and complaints of the patients in Ward 7 that they were occasionally beaten and that the technician threatened them, the same were warned immediately of the sanctions in case of repeated act.

All hospital personnel were informed of the new Law on the protection and the exercise of rights of mental patients, which became effective on 01.01.2006 and each ward was provided with a copy of the text of the Law.

In the meantime the number of technicians in Ward 7 went up (instead of 3 now 4 are employed) provided one technician is still on the shift which takes 12 hours. In that way the work of technicians has become somewhat easier, as far as our possibilities go, and in view of the fact that no one applied to the advertisement for employment of technician.

Further to the part dealing with the **living conditions of the patients**, more particularly in Ward 7 it is worth mentioning that it was relocated and that new conditions although not ideal are better in any case than the old ones.

Namely, the premises housing the patients of Ward 7 were whitewashed, rubber sheets for mattresses were procured and the hygienic conditions were improved in the sanitary part. There are several heaters in the Ward but due to the limited capacity the number of patients could have been significantly reduced.

The current problem of Department 8 was reported on several occasions to the Ministry of Health of RCG and the Health Insurance Fund, and we were promised that in the current 2006, the funds would be allocated for the adaptation of that facility. Provided the funds were available, it would be possible, next to the mentioned adaptation of the Ward, to plan the construction of the mentioned area for gymnastics and recreation of the patients and storm shelter.

Human resources in the hospital were resolved in keeping with the existing job classification of 10.03.1992. It is important to say that this job classification significantly reduced the number of employees (32 employees were made redundant, of which 14 medical workers), and that the Master plan of health services development in RM till 2010 approved by the Government during 2005, it was realistic to expect further reduction of employment in the health field.

The situation prevailing in psychiatry, as one of the very delicate and difficult areas without any benefits compared to other medical fields, faced us with the fact that the health workers are unwilling to apply for employment. That is why despite several attempts in the past couple of years only one medical technician-probationer applied; and the reason why it is very difficult to comply with the recommendation of CPT.

Further to the Law on the protection and the exercise of rights of mental patients (Article 51) an ethical committee was formed within the hospital, to follow up the application of ethical principles of health profession in psychiatry and offering the opinion on ethical issues in this area.

Part of the objections concerning our work which we are trying to rectify, are those relative to the multidisciplinary team work, namely higher share of support personnel (psychologists, work therapists, social workers) in the process of the patients' treatment.

That would certainly result in a better individual plan for treatment and psychosocial rehabilitation of our patients.

Regarding the recommendation to take measures of improving the quality and quantity of written medical documents, the same was presented to the employees after the preliminary report of the Commission.

In the part referring to the **means for restriction of movement/isolation** we will have yet to elaborate clearly defined politics of use of the means for restricting the movement and application of the measure of isolation, and further to that it would be useful to make joint guidelines with other mentioned institutions (Podgorica and Niksic). The provision of adequate equipment for restricting of movement is under way, namely the supply of that type of equipment is expected soon.

Also, one of the tasks in future will be the elaboration of the proposed brochure for the patients, containing the information about hospital routine, their rights, either on admission or later during hospitalization in the wards. The brochure would be issued to every patient on admission to hospital and their families.

The problem of forensic patients is still one of the biggest problems of the institution. We are witnessing ever more frequent referral of this category of patients to our institution, despite the fact that the hospital has no forensic ward, nor adequate security conditions for the treatment and hospitalization of those patients. It is important to mention very poor cooperation with courts, that mainly fail to return the information when we propose the termination of the measure of obligatory psychiatric treatment for individual patients.

Director of the Hospital
Dr. Aleksandar Pomcuk

