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**Response of the Government of
Bosnia and Herzegovina
on the visit to Bosnia and Herzegovina
carried out by the European Committee
for the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment (CPT)
from 27 April to 9 May 2003**

The Government of Bosnia and Herzegovina has requested the publication of this response. The report of the CPT on its April/May 2003 visit to Bosnia and Herzegovina is set out in document CPT/Inf (2004) 40.

Strasbourg, 21 December 2004

Report
of the authorities of Bosnia and Herzegovina
under request of the European Committee for the Prevention of Torture
and Inhuman or Degrading Treatment or Punishment

a) Information on measures actually taken on solving issues of security, resulting from situation in acute departments for men and women in the Institute for Treatment, Rehabilitation and Social Protection of Chronically Mental Patients Jakeš in Modriča

In accordance with Article 3 of the European Convention on Prevention of Torture and Other Inhuman or Degrading Treatments (hereinafter referred to as: the Convention), BiH authorities have taken activities with a view of fulfilling requirements by the European Committee for the prevention of torture and inhuman or degrading treatment or punishment (hereinafter referred to as: the Committee), referring to paragraph 184 stating requirements of the Committee concerning two concrete issues.

The first issue relates to the obligation by BiH authorities to forward without delay information on actually taken measures on solving issues of security, resulting from situation in acute departments for men and women in the Institute for Treatment, Rehabilitation and Social Protection of Chronically Mental Patients Jakeš in Modriča.

Ministry of Health and Social Protection of the Republika Srpska has established the Commission tasked to ascertain measures actually taken on solving issues of security in the Institute for Treatment, Rehabilitation and Social Protection of Chronically Mental Patients Jakeš in Modriča, and has made the Report, as follows:

1. Report by the Committee has been presented to the Institution's personnel and forwarded into their insight, with a view to declare on measures to be undertaken for better, more efficient and more secure performing of their assignments.
2. Focus has been put into acute departments for men and women, but relates to other departments, as well. Permanent presence of persons employed in these departments has been provided for 24 hours. A specialist doctor is on duty every day, together with a nurse, a male nurse, a cleaning woman, the chief nurse and a social worker.

The following measures have been undertaken with a view of providing as much security during stay of patients in closed departments of Institute Jakeš:

- Permanent and obligatory presence of medical workers during 24 hours, divided into shifts (a doctor, a department nurse, a male nurse, a social worker and a cleaning woman);
- Telephone line is established with Security Service, as well as with doctors on duty in acute departments for men and women;
- Holes (windows) have been built on all entrance doors of both departments, in order to make premises of halls visible;
- Opening of windows (transparent surfaces) at the walls of the rooms is being planned, in order to provide visibility of all patients' rooms from intervention rooms.

3. Last year Institute Jakeš employed a psychiatrist, who started work on 15 July 2003 (immediately after the Committee's visit). Focus of work is put on both acute departments. Institute Jakeš is also educating one psychiatrist who is to start his work in July 2004. Psychiatrists are also tasked to permanently educate medical staff during their work.
4. Specialist doctors are on duty daily (a neuropsychiatrist, an internist, a pneumophysiologist and a general practitioner). Therefore, earlier practice of duty by psychologist or social worker has been dropped.
5. Policy of physical restriction, isolation of anxious patients – under recommendation of the Committee, the Rulebook on physical restriction/isolation of anxious or violent patients who may hurt themselves or persons in their surroundings in such condition (Rulebook enclosed).
6. Patients in both departments have the possibility (at least one hour daily) of physical recreation outdoors (volleyball, basketball, football, walking), while in closed conditions playing of table tennis is provided in a room dimensioned 15 x 8 m, which has been foreseen for equipping for kinesy therapy, physical exercises, dances and folk dances.
7. Standards of hygiene in patients` rooms, medical facilities and living room have been improved, while there have been efforts in improving comfort and hygiene in the departments (TV set in acute department for women, decoration of walls using mural technique, and arranging of room plants) and equipping with furniture – cupboards, tables, benches, etc.
8. Work continuously on improvement of conditions of life, work and security for patients and employees of Institute Jakeš.

Enclosure: Rulebook on physical restriction/isolation of anxious patients

**THE INSTITUTE FOR TREATMENT, REHABILITATION
AND SOCIAL PROTECTION OF
CHRONICALLY MENTAL PATIENTS "JAKEŠ"
M O D R I Č A**

**R U L E B O O K
on physical restriction/isolation of anxious patients**

1. Physical restriction is done only in necessary situations, when measures of medicamentous, psychotherapy and social intervention are unsuccessful.
2. Physical restriction/isolation is proscribed by a physician, who enters all details into register and file of a patient.
3. Physical restriction/isolation is technically done in a following way:
 - Restriction of hands by binding with soft leather bandage, and/or by closing of a patient in an isolation room/acute department for women. These measures are taken without presence of other patients.
4. A physician determines duration of physical restriction/isolation and it should not be longer than 3 hours.
5. Supervision of a patient's condition should be continued during physical restriction/isolation.

b) Information on possible moving of Court Psychiatry Department of the Prison in Zenica

After performed monitoring by the European Committee in Bosnia and Herzegovina, Ministry of Justice and Ministry of Health of the Federation of Bosnia and Herzegovina have been undertaken activities on facilitation of moving of Court Psychiatry Department in Zenica.

After consideration of a special *Report on violation of rights of persons in performing security measures of compulsory psychiatric treatment and watching over the patients in health-care facilities, for whom such measure has been pronounced in court procedure*, submitted by the Ombudsmen of the Federation of BiH, the Government of the Federation of BiH has endorsed the Report, together with proposed conclusions prepared by Ministry of Justice of the Federation of BiH.

The above-mentioned conclusions determine the obligations of Ministry of Justice, Ministry of Health and Ministry of Labour and Social Affairs of the Federation of BiH for the establishment of social-health facility, for which the Government of the Federation of BiH should secure appropriate lacking-perspective building of the Army of the Federation of BiH.

The Government of the Federation of BiH has not offered any building so far; so there has neither been insight into the space nor its possible adaptation to the purpose of putting of perpetrators of a crime in a condition of incompetence, reduced or very reduced incompetence.

The Government of the Federation of BiH has adopted conclusion, by which Ministry of Justice, Ministry of Health and Ministry of Labour and Social Affairs of the Federation of BiH are tasked to prepare draft of the Law on Establishment of Social-Health Facility for the needs of the Federation of Bosnia and Herzegovina.

**Report
of the authorities of Bosnia and Herzegovina
upon request of the European Committee for the Prevention of Torture and
Inhuman or Degrading Treatment or Punishment**

Pursuant to Article 3 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as: the Convention), the authorities of Bosnia and Herzegovina have taken activities with a view to meet requests of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as: CPT), referring to Paragraph 183 stating requirements of CPT that the authorities of Bosnia and Herzegovina provide an interim response within six months, with details on plans for carrying out the recommendations, as well as information on actions already taken. CPT has stressed urgency of some of its recommendations.

CPT is of opinion that the authorities of Bosnia and Herzegovina will be able to provide reactions on comments formulated in the Report within the mentioned interim report, summarised in Appendix I, as well as responses provided on requests for information.

Following abovementioned obligations, since adoption of the CPT Report at the 45th session of the BiH Council of Ministers, held on 18 March 2004, Mrs. Minka Smajević, a representative of BiH Ministry for Human Rights and Refugees, as a main liaison officer with CPT, has held three working meetings with representatives of line ministries of BiH, with a view of timely reporting on all obligations of the authorities of Bosnia and Herzegovina interpreted in the CPT Report (list of recommendations, comments and requests for information by CPT).

Obligations of the authorities of Bosnia and Herzegovina in accordance with Paragraph 184 of the Report – responses on two specific issues – have been forwarded to CPT timely, following adoption at the session of the BiH Council of Ministers, held on 27 May 2004.

In the present Report we present single reports of line ministries of Bosnia and Herzegovina, the Federation of BiH and Republika Srpska, as per order of obligations interpreted in the Appendix I of the CPT Report.

A. Police institutions

Written enclosures submitted by:

BiH Ministry of Security
Ministry of Justice of Republika Srpska
Ministry of Interior of the Federation of BiH
Ministry of Interior of Republika Srpska

included into the present Report as per that order.

BiH Ministry of Security

In accordance with the obligations deriving from the Report on the visit of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, relating to providing an interim response on carrying out of recommendations, reactions to the comments and proving response on requests for information, as well as relating to newly established State Ministry of Security, CPT would like to receive information on its function and authorities related to deprivation of liberty. Therefore, we would like to inform you on the following:

The State Border Service is the only police force at the State level. The State Ministry of Security was established in March 2003, while the State Border Service acts as administrative unit of the Ministry of Security. Legal framework regulating police detention is new BiH Criminal Code and Criminal Procedure Code, which entered into force in March 2003. Article 10 Chapter III – individual police authorities of the BiH Law on Law Enforcement Officers, besides duties and authorities proscribed by the Criminal Procedure Code, prescribes the following police authorities with a view of preventing criminal acts:

- Check and determination of identity of persons and objects
- Conversations
- Bringing in
- Search for persons and objects
- Use of force
- Processing of personal data and keeping records.

Article 139 of the Criminal Procedure Code reads: A law enforcement agency may deprive a person of liberty if there are grounds to suspect that a person in question has committed criminal act; and if there are whatsoever grounds stipulated in Article 132 of the BiH Criminal Procedure Code, the person in question shall be brought promptly to the prosecutor by a law enforcement agency, within 24 hours at the latest. During bringing in, a law enforcement agency shall notify the Prosecutor on grounds for and time of deprivation of liberty.

A person deprived of liberty shall be instructed about his/her rights. The Prosecutor is bound to immediately interrogate a person deprived of liberty, within 24 hours at the latest, and to make decision within that period on releasing a person deprived of liberty, or setting to the judge for previous procedure a demand for determining detention.

All premises used by SBS, including the Main Office and field offices, are rented premises for which rental fee is paid, so there are no conditions for providing adequate premises for detainment of persons deprived of liberty. Having the mentioned in mind, the following is carried out in practice:

The Prosecutor is promptly notified on deprivation of liberty. Since there is high level of cooperation with Entity services, the further procedure for a person in question is determined by the order issued by the Prosecutor, while the prosecutor prescribes the institution the person in question will be accommodated.

Measures taken for overcoming the mentioned situation are the following:

- Construction of one's own facilities
- Project for construction of one's own facilities would be adjusted to standards and regulations of SBS needs.

Ministry of Justice of Republika Srpska

Ministry of Justice of Republika Srpska has submitted the following written enclosure on the issue of the legal framework for police detention within the RS Criminal Procedure Code.

Having in mind facts determined during the visit, as well as proposed activities on CPT Report requesting information on state of regulating the legal framework for police detention, at the level of Entity Criminal Procedure Codes, we have to emphasise that new RS Criminal Procedure Code (published in the Official Gazette of Republika Srpska, No. 50/03 on 27 June 2003, entered into force on 1 July 2003) essentially changed determining detention, as well as duration of detention as compared to previous legally regulated situation.

Namely, international standards on determining the detention have been built into new RS Criminal Procedure Code, while regulations on determining detention and grounds for its determining are essentially preserved from the previous Code (Articles 188 and 189 of the RS Criminal Procedure Code), excluding previous regulation according to which police detention lasted three days.

Article 191 of the new RS Criminal Procedure Code stipulates when detention is determined by court decision at the proposal of the Prosecutor, by preliminary proceedings judge's decision, that is preliminary hearing judge's decision. Detention during investigation may last a month at the longest, starting from the date of deprivation of liberty (Article 192 of the RS Criminal Procedure Code), while a suspect may be kept in detention after this time limit, for two months at the longest, upon court council's decision, made at the Prosecutor's proposal.

In extraordinary cases, if prison sentence of ten years or a more severe punishment is prescribed for a crime, detention may be prolonged for three months at the longest, upon decision of the Supreme Court of Republika Srpska. Upon expiration of the mentioned time limit, in the event the indictment has not been confirmed, a suspect shall be released.

Therefore, as compared to previous legal regulations, police detention has been completely eliminated; function of investigative judge has been completely transferred to the Prosecutor. With a view of protecting rights of the suspect, that is the indicted, Article 53 of the RS Criminal Procedure Code states that the suspect shall have the defendant immediately after determination of the detention, as well as during detention.

Article 5 of the RS Criminal Procedure Code stipulates that a person deprived of liberty shall be advised by the organ that deprives him of liberty, in his/her mother tongue or in a language s/he understands, that s/he is not bound to make any statements, that s/he is entitled to the legal assistance of a lawyer of his/her own choice or choice of his/her family, while the defender *ex officio* shall be appointed at his/her request, if s/he is not able to cover defence costs.

Articles 6 and 7 of the RS Criminal Procedure Code stipulates rights of the suspect as regards the right to choose the defendant, manner of defence, as well as time sufficient for preparation of defence.

Article 194 of the RS Criminal Procedure Code stipulates that detention may last one year at the longest after the indictment has been confirmed. Detention shall be abolished if the first instance verdict is not pronounced within that time limit.

Article 195 of the RS Criminal Procedure Code stipulates duration of detention following pronouncement of verdict, according to which it may last until verdict going into effect, at the longest until punishment pronounced in the first instance verdict expires.

Law enforcement agency may not pronounce measure of detention as stipulated by previous Criminal Procedure Code. Instead, law enforcement agencies are bound to immediately bring a person deprived of liberty before a prosecutor, 24 hours at the latest, on grounds that s/he committed a crime, and to inform him on grounds for and time of arrest. If within 24 hours law enforcement agency fails to do so, a person shall be released – Article 196 of the RS Criminal Procedure Code. The same Article stipulates that the preliminary procedure judge shall make a decision on determination of detention or release within 24 hours, at the prosecutor's proposal.

Such regulations on execution of detention and treatment of prisoners (rights and liberties, accommodation, special rights, right to medical care, right to communication with the outside world and the defender, violations of discipline, supervision over execution of detention) are stated in Articles 197-204 of the RS Criminal Procedure Code. RS Law on Execution of Criminal and Violation Sanctions (RS Official Gazette, Nos. 64/01 and 24/04) and other by-laws (rulebooks and instructions) precisely stipulate manners of execution of detention punishment.

In accordance with Article 308 of the RS Law on Execution of Criminal and Violation Sanctions, and Article 204 of the RS Criminal Procedure Code, Minister of Justice has passed the Rulebook on House Rules in Detention Facilities (RS Official Gazette, No. 4/04) of 18 May 2004.

This Rulebook defines reception and allocation of detainees, health-hygienic conditions, accommodation, work and behaviour of detainees, maintenance of order and discipline, visits, correspondence, reception of parcels and magazines, escorting and release, procedure in case of flight or death of detainees, as well as other issues relating to conditions and manner of serving measures of detention.

All these legally regulated rights and obligations towards detainees have been harmonised with the European Prison Rules.

RS Ministry of Interior

Following obligations deriving from the Report to the BiH Government on visit of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), relating to provision of response upon request for information, we herewith inform you on the following:

RS Ministry of Interior has forwarded an excerpt from the Report to all its organisational units, in order to familiarise them with determined facts during visit to the Banja Luka and Serb Sarajevo Public Security Centres (PSCs), as well as to Police stations Banja Luka 1 and 3, Pale and Serb Sarajevo, and asked them to inform us on measures and actions taken on realisation of recommendations. It has been particularly emphasised that the CPT Delegation has unimpeded access to places of detention, as well as to provide it with continuous access to detainees, and to submit for insight complete documentation for persons concerned.

All organisational units have been ordered to familiarise with contents of the Report all workers who use power in their work, to observe given recommendations as regards this problem (prevention of torture, inhuman and degrading treatment), as well as to consistently obey legal regulations and other procedures related to persons deprived of liberty.

It has particularly been stressed that things which are not used for execution of tasks (sticks, firearms, side arms, or other things which may be connected with degradation, torture or inhuman relation towards persons which may find themselves on any ground in the official premises of RS Ministry of Interior) shall not be located in working and other premises without justified reasons.

Furthermore, it has been ordered that some topics be treated and prepared more often through everyday formal and informal conversations, working meetings and training of law enforcement officials. These topics are as follows: "preparation of operative workers for criminology processing of persons connected with crime commitment", "manner of documenting and proving of crime commitment", "order of actions in the processing and documenting of committed crime and discovering perpetrator", "methods of informative talks with persons assumed perpetrators" and similar. Their goal is to prevent that an operative police officer is "provoked" due to non-professional and irregular actions, after which s/he undertakes actions which represent degradation, torture or inhuman treatment of person in question, since all abovementioned can have very difficult and harmful consequences for a law enforcement agent in a sense of criminal liability, disciplinary liability, loss of job, and similar.

Appendix 1 of the CPT Report gives the following information:

- Criminal Procedure Code was adopted by the National Assembly of Republika Srpska at the session held on 28 May 2003. Its application started on 1 July 2003. According to the mentioned Code, investigating system has been transferred to prosecutorial system, while investigating functions have been transferred to the prosecutor.

- Article 5 of the Criminal Procedure Code prescribes rights of persons deprived of liberty, namely: that s/he has to be advised, in his/her mother tongue or in a language s/he understands, of the reasons for his/her deprivation of liberty, to be instructed prior to first examination that s/he is not bound to make any statements, that s/he is entitled to the legal assistance of a lawyer of his/her own choice, that his/her family or a person s/he appoints has a right to be informed on his/her deprivation of liberty.
- Articles 188 to 196 of the RS Criminal Procedure Code deal with detention, namely: determination of detention, grounds for detention, general right of retention, determination of detention authority, duration of detention during investigation, abolition of detention, detention after confirmation of indictment, determination of detention after pronouncement of verdict, deprivation of liberty by law enforcement agencies, as well as remand in custody.
- Article 196 of the RS Criminal Procedure Code stipulates that the law enforcement agency can deprive a person of liberty if there are grounds to suspect that a person in question has committed crime, and if there is whatsoever ground stipulated in Article 189, but is obliged to bring such person before a prosecutor immediately, 24 hours at the latest. During bringing in, law enforcement agency shall inform the prosecutor on grounds for and time of deprivation of liberty, while use of force is permitted only in accordance with the law. The prosecutor is obliged to interrogate such person immediately, 24 hours at the latest, and to decide within that time limit whether to release him or to order that claim for determination of detention be filed with a judge for previous procedure.

Training for work in RS Ministry of Interior is organised with Higher School for Internal Affairs and the Police Academy, which are organisationally linked to Police Education Administration.

Candidates for officers are educated at the Higher School, while candidates for policemen are educated at the Police Academy.

Police Education Administration has been familiarised with CPT recommendations. It will give a special position to prevention of torture, inhuman and degrading treatment or punishment through curricula and teaching programmes. Priority will be given to professional training of law enforcement officials of all ranks, stressing that capability of interpersonal communication be one of the main factors in the process of recruiting of law enforcement officers.

An expert team has been established with a view of determining health conditions on capabilities for work and education for work in RS Ministry of Interior. This Expert team work on the principle of team processing, and consists of specialist doctors, namely: industrial medicine doctor, psychiatrist, ophthalmologist, otorhinolaryngologist, gynaecologist, internist, orthopaedist or physiatrist and graduated psychologist.

Training at the Police Academy consists of theoretical and practical part of training carried out in Police stations, lasting 6 months each.

Candidate completes his/her education at the Police Academy if s/he completes both theoretical and practical parts of training successfully. After completion of the Police Academy, candidates are employed in RS Ministry of Interior on temporary basis as beginning employees, after which they take expert examination and are distributed to organisational units of RS Ministry of Interior.

All law enforcement officers have been familiarised by the Public Security Centres of RS Ministry of Interior with the content of the Report relating to Ministry of Interior, with a view of eliminating shortages noticed by CPT. All things that could be used for physical mistreatment during investigation have been removed from police premises used for work with persons deprived of liberty.

After supervision of CPT and inspection supervision by Ministry of Interior, Police Station Pale has removed noticed shortages; premises have been whitewashed, while beds have been repaired.

All Public Security Centres have been ordered to re-examine premises accommodating persons deprived of liberty and to take care of them properly in the following period.

During inspection supervision by inspector of Police Administration, it has been noticed that Police Stations gave much more attention to conditions in premises for accommodation of persons deprived of liberty as compared with previous period.

System of complaints of RS Ministry of Interior is organised through Bureau for Appeals and Petitions which has been established with Cabinet of the Minister in accordance with new Rulebook on Internal Organisation, adopted on 30 October 2003, while Internal Control Inspectorate had already been in function.

Appropriate records have been kept in RS Ministry of Interior for each person being deprived of liberty. In case of need, medical assistance for persons deprived of liberty is provided. Moreover, they are informed on rights as regards informing the family, as well as possibility to engage lawyer. All police stations with RS Ministry of Interior have been forwarded a list of lawyers received by the RS Bar Association.

It has been prescribed that Records on Deprivation of Liberty be kept in Police stations, and they are kept uniformly in RS Ministry of Interior. They reflect legality of work of Police stations, and are regularly inspected during control services and inspection supervision by inspectors of Public Security Centres and Ministry of Interior.

Federation BiH Ministry of Interior

In accordance with obligations deriving from the Report on Visit of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, relating to providing an interim response on carrying out of recommendations, reactions to the comments and proving response on requests for information, we herewith inform you on the following:

Regarding request from your liaison files, this Ministry forwarded on 8 April 2004 to Ministers of all Cantonal Ministries of Interior, as well as to Director of Federation of BiH Police Administration, an Excerpt from the mentioned Report regarding the facts established during visit to police institutions and proposed actions, as well as Appendix I of the Report regarding the list of CPT recommendations, comments and requests for information as regards police institutions, and asked them to inform us on measures and actions they have undertaken and are undertaking on carrying out of recommendations, as well as to provide responses to requests for information. It has particularly been emphasised that, in accordance with the Convention for Prevention of Torture, CPT delegations shall have unhindered access to places of detention and right to move within such places without limitations. Moreover, based on such visit, they are allowed to give recommendations contained in report forwarded to the state they visited. Such report is a starting point for permanent dialogue with the State concerned.

At the Regional Conference on Professional Standards Units (internal controls), held in organisation of this Ministry on 2nd and 3rd June 2004 in Sarajevo, with participation of heads of Professional Standards Units of Ministries of Interior from seven states in this region, as well as all heads of Professional Standards Units of State, Entity and Cantonal police institutions in BiH, one of the topic of the round table was "Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment – Carrying out from aspect of competencies of internal affairs agencies and the role of Professional Standards units". This Ministry has prepared introductory statement on the mentioned topic, in which recommendations from the Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment have been stated and inserted.

As regards Appendix I from CPT Report, we inform you on the following:

Preliminary remarks – Requests for information

Criminal Code of Federation of BiH and Criminal Procedure Code of Federation of BiH were proclaimed on 27 July 2003.

Article 153 of the Federation of BiH Criminal Procedure Code contains regulation on deprivation of liberty and remand in custody, according to which law enforcement agency may deprive a person of liberty if there are justifiable grounds that a person in question has committed a crime, and if there is whatsoever ground for detention stipulated in Article 146; however, law enforcement official is bound to bring such person before a prosecutor immediately, 24 hours at the latest (previous Federation of BiH Criminal Procedure Code proscribed that such person is to be brought before an investigating judge).

During bringing in law enforcement authority shall inform the prosecutor on grounds for and time of deprivation of liberty. Use of force during bringing in is permitted in accordance with the law. A person deprived of liberty shall be informed on his/her rights, and shall be released if s/he is not brought before a prosecutor within the mentioned deadline.

Moreover, as per the mentioned Code, institution of the investigative judge does not exist any longer. Now the prosecutor conducts investigation, within which s/he conducts investigative actions, amongst them hearing of the suspect and the witness. Article 5 of the mentioned Code proscribes rights of persons deprived of liberty, according to which a person deprived of liberty shall be advised immediately, in his/her mother tongue or in a language s/he understands, of the reasons for his/her deprivation of liberty. S/he shall be instructed prior to first examination that s/he is not bound to make any statements, that s/he is entitled to the legal assistance of a lawyer of his/her own choice, that his/her family or consular officer of the foreign country whose citizen s/he is, or a person s/he appoints have the right to be informed on his/her being deprived of liberty. The defender shall be appointed at his/her request, if s/he is not able to cover defence costs.

Torture and other forms of mistreatment – Recommendations

We have been informed by the Cantonal Ministries of Interior that officials of these ministries have been informed on contents of CPT Report related to ascertained situation, as well as to recommendations and similar, with a view of acting upon them. They have also been informed with obligation of legal treatment, that illegal treatment shall not be tolerated, that all information relating to illegal treatment or alleged mistreatment shall be checked thoroughly, as well as that perpetrators of such actions shall be sanctioned in accordance with positive law norms.

Use of force (means of force) by law enforcement officials during performing official duties (deprivation of liberty and similar) has to be proportional to danger that threatens in concrete circumstances, and every violation of intensity of use of force is illegal treatment. From the mentioned grounds, in all cases in which means of force are used, competent service considers justification of use of means of force. In cases in which illegal treatment of law enforcement officials is determined, appropriate procedure is started (disciplinary or criminal charges).

We have particularly familiarised the Police Academy in Sarajevo with the CPT Recommendations. Moreover, we recommended that great priority should be given to professional training of law enforcement officers of all ranks and categories, taking into consideration measures presented in the report, as the best possible guarantee against torture, stressing that capability of interpersonal communication be one of the main factors in the process of recruiting of law enforcement officials, as well as that significant stress during training of those officials be put on acquisition and development of capability of interpersonal communication. In reference to the mentioned, the Police Academy has informed us on the following:

Police Academy is educational institution which, in accordance with the Federation of BiH Law on Internal Affairs, performs jobs of education and expert training of personnel for needs of Federal Police, Cantonal Ministries of Interior, State Border Service, Court Police, District Brčko Police, as well as other law enforcement agencies.

Education at the Police Academy is performed on the basis of curricula and programmes for Basic Training, as well as curricula and programmes for expert training and advanced training of law enforcement and other personnel engaged in law implementation.

All curricula and programmes contain material relating to European Convention on the Protection of Human Rights and Freedoms, as well as protection from torture, inhuman or degrading treatment or punishment.

Protection and respect of human rights and freedoms is particularly dealt with in the following subjects: Human Rights, Police jobs and Code of Conduct, Introduction to Law and Democratic Principles, Criminology, and other subjects; that is appropriate thematic wholes of the subjects contain material dealt with in the mentioned Conventions.

European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment is taught as separate thematic whole within subject Human Rights.

Officials of the Police Academy give particular priority in the course of education of students to CPT Recommendations, that is in selection of personnel and selection of basic training students, attention is given to humane and fair treatment, as well as to regional, ethnic and gender representation of candidates who have applied for admission at the Police Academy. Moreover, in the selection of students process particular attention is given to capabilities for interpersonal communication in the course of education.

The Police Academy shall in future plan and realise curricula and programmes in the spirit of the European Convention on the Protection of Human Rights and Fundamental Freedoms, as well as work on engagement of experts outside police structures on realisation of Curricula.

Law enforcement officers are bound to obey legal norms defined in Article 5 of the Federation of BiH Criminal Procedure Code, as stated in preliminary remarks – requests for information, including rights of persons deprived of liberty.

Index of detention (Records on deprivation of liberty) being kept, contains, *inter alia*, data on persons deprived of liberty, data on officials who deprived persons of liberty, time of deprivation of liberty, rights of persons deprived of liberty, etc.

A part relating to rights of persons deprived of liberty, among others, notes time of deprivation of liberty, time of release or bringing before competent prosecutor or other organ, and if and in which phase a person deprived of liberty asked defender, if s/he asked medical examination, if s/he asked that a family or another person be informed on his/her deprivation of liberty, as well as number of receipt of deprivation of liberty issued to a person deprived of liberty immediately after deprivation of liberty.

Requests for information

We have been informed by Cantonal Ministries of Interior and Administration of Police of this Ministry that performed inspection has established that things suitable for injuring and inhuman treatment towards persons being questioned have not been found in premises for questioning and remanding.

In Federal Ministry of Interior, as well as in all Cantonal Ministries of Interior, there are Units or Departments for Internal Control and Inspection, which, among others, act upon all petitions and complaints of citizens and officials of Ministries of Interior on illegal and unsuitable behaviour of personnel of Ministry of Interior. Offices for Appeals of the Public have already been established in most Cantonal Ministries of Interior, while appropriate measures on their implementation have been taken in Federal Ministry of Interior, as well as in those Cantonal Ministries of Interior in which such Offices have not been established. These Offices have to function within Ministries of Interior, but they carry out their duties and obligations independently from operative chain of command. One of the members of the Office is a member of Ministry of Interior, while other members are representatives of the public. These Offices are responsible, inter alia, for monitoring of all complaints forwarded to Ministry of Interior, monitoring of realisation of investigations performed by Internal controls, issuing of orders for starting of new investigation in case when the Office is not satisfied with conducted investigation of the Internal control, and similar.

Protection from mistreatment of persons deprived of liberty – Recommendations

As already stated in requested information in preliminary remarks, rights of persons deprived of liberty have been prescribed in Federation BiH Criminal Procedure Code, amongst which a right of a family to be informed on his/her deprivation of liberty, as well as right to access to defender, which has been applied in practice.

On 8 April 2004 we proposed Federal Ministry of Justice that concrete regulations in Federation BiH Criminal Procedure Code as regards a right of persons in police detention on access to a physician be adopted, as stated in CPT Report. In view of the above, on 5 May 2004 Federal Ministry of Justice forwarded to BiH Ministry of Justice – Team for Monitoring of Crime Legislation Implementation, initiative for amending the Federation BiH Criminal Procedure Code, for insight and taking attitude on necessity of such amendments.

Conditions of detention- Recommendations

Premises for accommodation of persons deprived of liberty meet standards from this field in most Ministries of Interior. In Ministries of Interior in which this is not the case, appropriate measures are being taken on rehabilitation of such premises and removing of noticed shortages, as well as on providing adequate premises in accordance with material possibilities.

Requests for information

Following supervision of premises for remanding by CPT Delegation, as well as inspection supervision of Herzegovina-Neretva Canton Ministry of Interior, during which certain facts have been determined and removal of certain negativities ordered, Police Station Mostar Centar has whitewashed the mentioned premises, beds have been changed, and measures on greater hygiene of mentioned premises have been taken. Things listed in CPT Report have been removed from premises for work of police inspectors and stored in special premises for saving of deposits.

Two remarks stated in CPT Delegation Report related to police institutions within Ministry of Interior of Western Herzegovina Canton – Ljubuški: two baseball bats have been found in the office of Crim Police of Police Station Posušje. It has been determined that bats have been taken away with issued Receipt on Temporary Confiscation of Objects, that they are subject of court procedure, that they have not been adequately put into storage, namely that they have not been put into premises for deposit. This shortage has been eliminated. Second remark refers to unconditional premises accommodating persons deprived of liberty in Police Station Široki Brijeg. This shortage has been eliminated by construction of new building of Police Station Široki Brijeg in June 2003.

B. Prisons

In accordance with Government of Bosnia and Herzegovina liaison officer's conclusions with the liaison officers of relevant Ministries of Bosnia and Herzegovina, entities and BiH Brčko District, we send you the responses that relate to monitoring in penal institutions within the Federation of Bosnia and Herzegovina.

Acting pursuant the requests referred to in Section D. Subsections 182 to 184 of CPT Report, and responding to the concrete actions in accordance with the recommendations and CPT's request from the ANNEX I under B, the liaison officer from the Federation of Bosnia and Herzegovina presents the following information:

1. The formal legal situation (**paragraphs 35 to 39**) within the Federation of Bosnia and Herzegovina is partly changed through passing the new acts from the field of criminal legislation being harmonized with already passed (during the visit of CPT delegation) state laws. So the Criminal Law of the Federation of Bosnia and Herzegovina ("Official Gazette of the Federation of BiH" No. 36/03), and the Federation of Bosnia and Herzegovina Law on Criminal Procedure ("Official Gazette of the Federation of BiH" No. 35/03) have been passed and entered into force on August 1, 2003, and the same guarantee the rights and possibilities for the access to a defense attorney (the Federation of Bosnia and Herzegovina Law on Criminal Procedure Chapter VII).

Regarding "the revised version of the Law on Criminal Sanctions Execution within FBiH" which was passed to the parliamentary procedure by the end of 2002, the same was withdrawn for more reasons. First, the newly established Government of the Federation of Bosnia and Herzegovina (from February 2003) withdrew all drafts which were previously submitted and have not been examined, second, Council of Europe experts were asked to give their suggestions to the proposed draft, and so it was necessary to harmonize some draft's provisions with those suggestions, third, the procedure for making the State Law on Criminal Sanctions Execution within Bosnia and Herzegovina was introduced, and so the entities' laws should be harmonized with the provisions of that "roof" law, and fourth, the new Federation of Bosnia and Herzegovina Law on Criminal Procedure requests the certain adjustments, etc. Therefore, the Law on Criminal Sanctions Execution from 1998 is still in force within the Federation of BiH, and the preparations for passing of a new law are underway.

After passing of the Law on Criminal Procedure of the Federation of Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina Criminal Law, as the implemental regulations of those Laws, the following are adopted:

1. Set of Rules on house rules in the detention institutions (“Official Gazette of the Federation of BiH” No. 57/03),
2. Set of Rules on defining of detention institutions (“Official Gazette of the Federation of BiH” No. 60/03),
3. Set of Rules on the Criteria for placement of convicted persons to serve a sentence (“Official Gazette of the Federation of BiH” No. 36/03).
4. Except **previously given explanations with CPT Report paragraph 49** on causes, developments and the epilogue the convicts riot within Zenica Correctional Institution (KPZ), and the measures taken by the prison administration and state authorities, it is additionally concluded:

The Criminal Legislation (Criminal Law and the Law on Criminal Procedure (KZ and ZKP)), and especially the Law on Criminal Sanctions Execution within the Federation of BiH, regulate the use of the means of correction and other permits of the official persons /Articles 144 to 150), as well as the supervision over the operations of correction institutes (Articles 152 to 155), and the Set of Rules on the method of security performing service, armament and the equipment, use of firearms, official means of identification and form of prison police-guards uniform within the federal institutions for penalty of imprisonment fulfillment (“Official Gazette of the Federation of BiH” Nos. 15/99 and 46/99), especially regulates the use of firearms and other means of correction (Articles 39 to 71).

Except the supervision by the competent Federal Ministry of Justice, special investigations by “independent and impartial” organs or committees are not planned, what is in principle supported in special occasions.

The liaison officers for contacts with CPT could initiate such investigation in future through the State BiH Ministry for Human Rights and Refugees.

Federal Ministry of Justice has justified the intervention of KPZ’s security service, and estimated that the used means of correction were adequate to the situation, the risks of escalation of riot and destruction, having in mind absolutely illegal and unacceptable requirements imposed by the convicts.

5. The training of prison staff (**paragraph 52 of the Report**) is a priority of a competent Ministry and KPZ within the Federation of BiH, and besides the regular programs, with the help of Council of Europe experts, an important program “Training and Development of the Prison Staff within Bosnia and Herzegovina” with the special emphasis to creation of a micro team i.e. the embryo of the Educational Center is implemented, and the phase of education of future educators (highly screened persons from KPZs), and education of prison managers, and the second phase – selection and realization of priority programs for each correctional institution including, certainly, the capabilities for mutual communications and building of positive relations with prisoners are in realization. In addition, both normative and in practice is clearly expressed the attitude that any physical and psychical abuse and mistreatment of prisoners are forbidden and strictly liable to punishment.

The changes of regulations that give the right to convicts to medical examination within KPZ and independent of KPZ within 24 hours, with the right for insight and keeping of medical documentation copies are prepared.

6. Creation of strategy for fight against violence among the prisoners and against self-injuring (**paragraph 52 of the Report**), is a permanent concern of the prison administration, but this is to a great extent determined with the actual material resources, inefficient number of (very good trained) prison staff, objectively conditioned by the collective serving of sentence system, overcrowding of prison's capacities, etc.
7. All prisoners, and especially juveniles, are disciplinary treated in accordance with the prescribed procedures. Self-injuring is in practice not treated as an infringement of discipline, what will also be normative regulated within the future laws and supporting regulations changes.

Persons under 18 years are never put in prison cells and dormitory rooms together with majors and elderly persons, and even the younger majors (up to 23 years) are mainly put separate from others. However, for the reason of situation with the available capacities, it is hard to separate them into the individual collectives and pavilions what enables mingling during the daily activities (**paragraph 55 of the Report**).

8. Number of the employees within the prison institutions is in accordance with sets of rules on internal organization, and in accordance with material resources of the state to set aside budget funds for those purposes, and so it is difficult to provide for the standards that are determined by the European Prison Rules and positive experiences of good organized prison systems within Europe. The attitude of Federation of BiH Government is that the number of employees who were employed in that moment in administration organs, as well as the funds for salaries of the employees could not be increased. The universal reform of public administration is expected, and within that scopes also the rational employment in governmental organs, and prison institutions as well. Council of Europe experts and DFID assist in preparation of an analysis of situation with the employed personnel, and plans for the next 3 years (**paragraph 58 of the Report**)
9. Any important event, as well as the incidents, are registered and have their separate dossiers, and the basic data are entered into regular (obligatory) books and official files. (**paragraph 59 of the Report**).
10. Regular by name records on the convicts who individually stay in each room (**paragraph 59 of the Report**), are established.
11. It is provided for that the prisoners are never put in the dark prison cells, the metal plate in the cell number 29 within the Pavilion II was removed, and there are two medical solitary cells under video surveillance, certainly with monitoring through the installed monitors (**paragraph 68 of the Report**).

12. Efforts are made in order to provide for the minimum of 4 m² of space/convict, associated with the great difficulties because of space and material conditions and budget possibilities, and the separation of the toilets in many-beds prison cells was already performed. **(paragraph 70 of the Report).**
13. Quality and quantity of food in KPZs, and especially in KPZ Sarajevo detention are improved, with the possibility for prisoners who wish that, could have the additional meal. The juveniles normally have more caloric food – minimum 14500 joules/day. **(paragraph 70 of the Report).**
14. With the assistance of DFID and “ATOS CONSULTING” the project “Development of Acceptable Strategies within the Sector of Justice” is in realization, in scope of which are prepared the annual and medium-term strategic plans (for 2004, and from 2005 to 2007), with the aim for available restricted budget funds to be more rational used and aimed to solving of the key material conditions within the correction institutions. (Considering the remarks from paragraphs 60 to 68) = **(paragraph 70 of the Report).**
15. On basis of Law on Criminal Procedure of the Federation of BiH Article 161 (“Official Gazette of the Federation of BiH” No. 35/03), Federal Ministry of Justice has adopted the Set of Rules on house rules within the detention institutes (“Official Gazette of the Federation of BiH” No. 57/03), which entered into force on November 10, 2003, and which precisely regulates the method of treatment with pretrial detainees and especially: admission of the pretrial detainees, their placement and accommodation, getting known with house rules and other regulations, pretrial detainees rights, nutrition, health care and hygienic measures carrying out, way of meeting the religious needs, way of communications with the outer world and the defense attorney, disciplinary offenses of pretrial detainees, receiving of visits and packages, way of daily rest use and outdoors stay, sports and other activities, work, work compensations, maintaining of order and discipline, release from detention and other issues of importance for conditions and ways of detention measures serving. However, the material conditions within the prisons do not fully enable the exercise of all these provisions, but there are intentions for its realization, and it is one of the basic items within the planned strategies.

Number of pretrial detainees was especially problematic within KPZ Sarajevo, and Federal Ministry of Justice and the Federation of BiH Government have agreed to increase the number of guards for 21 people what would significantly improve the conditions and supervision over execution of detention measures and especially of pretrial detainees security (in hospital etc.) **(paragraph 72 of the Report).**

16. The conditions have been ensured, and all prisons were ordered to ensure at least one hour daily for the outdoors activities to all pretrial detainees in custody awaiting trial. However, within the Sarajevo prison, overcrowding of the detention units, and inefficient space for walk, sports and other activities are still the most the crucial problems. **(paragraph 72 of the Report)**

17. Steps in order to ensure all prisoners within KPZ Zenica to have the access to the adequate choice of working, educational, religious, sports and recreative activities have been undertaken. The possibility of substitution of work engagement of convicts instead in industry (for the reason of costs and work risks in foundry) is seriously considered, but it is hard to ensure for such large number of convicts the occupation adequate to their qualifications (**paragraph 75 of the Report**)
18. Within the closed type Correctional Institute Zenica currently 28 convicts attend an elementary school, 48 convicts attend a high school, and about 100 convicts with their every day's active engagement are included in various hobby groups. Regularly are organized various sports competitions where over 60% of sentenced persons participate, and film, music or other cultural-and artistic shows are regularly organized once in a week. (**paragraph 73 of the Report**)
19. Health service staff within the prisons in Zenica and Sarajevo is partly made stronger, but they will be more strengthened after solving of issues of psychiatric (judicial) ward from the Pavilion IV within KPZ in Zenica, and more rational use and better cooperation with the physicians from area- public health facilities. (**paragraph 77 of the Report**)
20. Medical ward within KPZ Zenica (policlinic, dispensary, pharmacy, etc.) shall be moved into the newly reconstructed, erected and equipped separate premises, while after moving of the psychiatric ward the Pavilion IV would be rearranged into the pavilion for the most risky group of convicts who incline toward persistent problematic behavior and who affect with their destruction on creation of negative core and model of behavior, with the bad influence to other convicts through blackmail, pressure into physical fights, drug dealing, etc.

This activity is planned also because of fact that KPZ Zenica is the only closed type correctional institute and as such predetermined for concentration of the most risky groups of the convicts.

Seriously are also considered the need and possibilities for organizing closed type convicts' wards within KPZs in Tuzla and Mostar, what would lessen the problem of overcrowding within KPZ Zenica for the convicts who are coming in prison, and must serve a part of sentence in closed type correctional institutions according to the law. (**paragraph 78 of the Report**)

21. The conditions are created, and all prisons were ordered to make a systematic medical checkup of every newly accepted prisoner within 24 hours. The plan for establishing a **center for acceptance of all convicts** (for example, for penalty of imprisonment over 6 or 12 months) for a long term is considered, in which the complete treatment (administrative, health, psychological, sociological, occupational, educational and complete penology estimation – classification would be executed), with the proposal of the institution where convict could serve a penalty of imprisonment (**paragraph 80 of the Report**).
22. Medical worker (physician or skilled medical technician = nurse) is obliged to include the statements and quotations on injuries of a convict into his/her medical record card, and the convict or pretrial detainee has the right to require the photocopy of the medical findings with registered statements on injuries for his/her personal use, and for giving to the attorney.

Health service is obliged to give report to the warden on a daily basis, and he is obliged to give the report to the competent prosecutor's office and other bodies. **(paragraph 82 of the Report)**.

23. All health services and management of KPZ, were informed about obeying medical confidentiality, but for the reason of security, the presence of the prison guard is necessary in certain situations, what they should not misuse ethically, i.e. failing that they would be disciplinary treated. **(paragraph 83 of the Report)**.
24. Each form of physical or psychical abuse of patients (especially the psychiatric ones) is strictly forbidden, and if in the concrete cases through investigation is established the accuracy of assertion, the most severe disciplinary measures – up to termination of employment, would be taken. **(paragraph 86 of the Report)**
25. A number of information and proposals on judicial psychiatry ward in Zenica prison was made, and so on this occasion is pointed out to the fact that the Government of the Federation of BiH, examining the Federation of BiH Ombudsmen Special Report on violation of rights of persons who are sentenced in judicial proceedings to the security measures of obligatory psychiatric treatment and keeping in medical institution, and declaration of Federal Ministry of Justice, adopted the conclusions for establishing a special social-and health institution, a working group for preparation of the solution proposal and making a draft of the Law on establishing such an institution within Federation of BiH. The Working group submitted its proposals to the competent ministries, which should submit them after verification to the Government of BiH as a proposal for definition and making of the adequate acts. **(paragraphs 86 to 99 of the Report)**.
26. The urgent steps have (partly) been taken, but the complex solution is expected by final moving of psychiatric ward from KPZ Zenica **(paragraph 100 of the Report)**.
27. The construction works and equipping of premises for prevention of eavesdropping of convicts' conversations with their attorneys in all prisons that have such conditions are foreseen in the Financial Plan for 2004. **(paragraph 102 of the Report)**.
28. Within all prisons which have the rooms intended for "free visits", the use for male and female convicts is enabled, but, in general, contact of convicts with outer world is under competence of tribunal in which the procedure is underway, and which estimates the risks to a course of the investigation and judicial procedure. **(paragraph 102 of the Report)**.
29. Phone conversations of convicts, in principle are performed through the public booths that are installed within the prison perimeter (system of telephone cards) and are not wiretapped. The competent court approves convicts' telephone conversations with their families and attorneys, but the convicts often misuse mobile telephones brought into detention cells, with the possibility of influencing to the witnesses and investigation evidences, which is sanctioned by expropriating mobile telephones and informing the court, which undertakes the adequate measure in accordance with the Law on Criminal Procedure of the Federation of BiH. **(paragraph 104 of the Report)**.

30. According to the Law, the convicts have right to visits, and detainees, in accordance with the Law on Criminal Procedure and court's approval, but objectively more open and frequent arrangements are conditioned by spatial and personnel possibilities of a prison. **(paragraphs 102 and 104 of the Report).**
31. Within KPZ Zenica there exists a prison department for juveniles, which is well organized, but for the reason of a small number of juvenile convicts and overcrowding of other convicts' collectives, the available capacities within the pavilion V are used also by other ("better") convicts.

The rational solution would be an establishment of a center for juveniles from both Bosnia and Herzegovina's entities, but that issue is still not considered more comprehensive because the adequate material and political assumptions probably still do not exist. **(paragraph 106 of the Report).**

32. Law on Criminal Sanctions Execution within the Federation of Bosnia and Herzegovina, and Set of Rules on clothing, footwear, nutrition, disciplinary procedure, conditions and ways of serving the disciplinary sentence, confinement in solitary cells and the measures of isolation of sentenced persons within the Federal institutions for executing a prison sentence ("Official Gazette" no. 15/99) regulates the procedure for disciplinary procedures against convicts, which defines all recommendations referred to in Items 110 and 111, and prison managements are obliged to be in strict compliance with them. **(paragraphs 110 and 111 of the Report)**
33. Metal rings on the floors in the two solitary cells within KPZ Sarajevo have been removed immediately (and according to prison management's statement, they have not been used for a long time). **(paragraph 112 of the Report)**
34. Except the detailed regulated procedures and methods of registration of persons in execution of isolation measures (Set of Rules on Disciplinary Procedure and Isolation Measures Article 43), prisons' managements have especially been warned of the obligation of CPT's compliance and application of recommendations. **(paragraph 113 of the Report)**
35. Within the procedure of submitting complaints to the competent authorities, special records are standardized, but the obligatory issuing of confirmation to the sentenced person about received complaint would be requested. **(paragraph 114 of the Report)**
36. Through the Set of Rules the detainees were given the possibility to converse in private and without prison staff control and hand over the written matters to their attorneys during a regular visit in detention units. **(paragraph 115 of the Report)**

Correctional Institution (KPZ) Zenica

Considering the announced monitoring of the European Committee for Prevention of Torture and Inhuman and Degrading Treatment or Punishment – CPT within Bosnia and Herzegovina, which was announced within period from April 27, to May 9, 2004, Correctional Institution Zenica delivers the Report on the adopted CPT's recommendations.

In the new Correctional Institution Zenica House Rules, the following changes occur:

- sentenced persons self-injury is not treated as a disciplinary violation (CPT Report paragraph 55),
- every sentenced person must be examined by a physician or other skilled person who is responsible to a physician (CPT Report paragraph 80) - (Set of Rules Article 9) within 24 hours;
- prison physician is obliged to file the facts on injuries in the medical chart of the sentenced or detained person, and the sentenced or detained person has the right to request the photocopy of medical findings with included statements about the injury for his/her personal use, handing over to the attorney, etc. (paragraphs 81 and 82) – (Set of Rules Article 41 Page 9);
- the new records and an adequate procedure for acceptance and responding to all complaints from the convicts (CPT Report paragraph 114) – (Set of Rules Article 161 Page 29) are established;
- According to a new House Rules, the medical examination is performed without the prison's officer presence and in that way is met the principle of confidentiality between the physician and patient (CPT Report paragraph 83) – (Set of Rules Article 40 Page 9);
- Medical documentation of the sentenced person is available only to medical staff and an individual convict.

Realized Recommendations

All sentenced persons within KPZ Zenica had minimum two hours for outdoors stay even before CPT's arrival.

All persons in detention also have 2 hours for walk and exercise the recreational activities, the walk circle for persons in detention is extended, and the eaves where the sentenced persons could stay if the rain is falling were constructed, and the sports programs were enlarged as well (CPT Report paragraph 71 and paragraph 72),

- Within the second pavilion in solitary cells the room with toilets was partitioned, and the same was separated from the room with beds (CPT Report paragraph 67),
-

- Independent of CPT' visit, within KPZ Zenica the complete reconstruction was finished some months ago, so the dormitories were partitioned and now have maximum 3 – 5 sentenced persons,
- A metal board from the window of the solitary cell no. 29 was removed, and the two medical solitary cells which are under the video surveillance (CPT's Report paragraph 68) were established,
- Within the Judicial Psychiatry Ward a new roof as a protection from rain was placed over the walk with the purpose of satisfying of needs for fresh air, i.e. the determined minimum of 2 hours daily (Regarding CPT's Report paragraph 72),
- Within KPZ Zenica 28 sentenced persons currently attend the elementary school, 48 sentenced persons attend the high school, and with the everyday active engagement within the various activities are included about 100 sentenced persons: Various sports competitions in which participate over 60% of sentenced persons are regularly organized,
- All sentenced persons who are interested in sports activities could actively include in the same (CPT's Report paragraph 173).

Recommendations that have not been realized

- The number of security guard was not increased (CPT's Report paragraph 58),
- Also the foreseen number of medical staff was not increased (CPT's Report paragraph 77),
- KPZ Zenica is still the only closed type prison within the Federation of BiH, what makes a numerous obstacles in terms of more quality treatment programs and classification of the sentenced persons (CPT's Report paragraph 74),
- A forensic psychiatry ward was not removed (CPT's Report paragraph 184),
- Considering the capacities of 590 places, the number of sentenced persons is currently about 650 sentenced, what means that there is a lack of space for realization of treatment for special groups of sentenced as: drug addicts, dangerous convicts, psychiatric cases, etc.
- Juvenile inmates are not put in a separate center for the reason that KPZ Zenica has not the conditions for the same because overcrowding (CPT's Report paragraph 106),

Comments to CPT's Report with Proposals for Satisfying of the given Recommendations

Having in mind that CPT (European Committee for Prevention of Torture and Inhuman and Degrading Treatment or Punishment) as a very authoritative body with the Council of Europe visited some institutions, among which closed type KPZ (KPZZT) Zenica within period from April 27 to May 9, 2003, the Management of KPZZT Zenica (hereinafter: Zenica) after having insight into this Report, makes the following proposals and suggestions for improvement of the existing situation.

A. In the Report paragraph 55, among other things was mentioned that it is especially important that juveniles are put separate from the adults. Considering that for the reason of the objective overcrowding in Zenica is impossible to comply with this recommendation, we propose the possibility of possible juvenile prison to be moved from Zenica into other KPZ, especially because of a small number of juveniles (10 - 12 persons), and because there are KPZ's that are not overcrowded with sentenced and detained persons.

B. In paragraph 58, («Insufficient number of personnel in Zenica, CPT recommends the employment of sufficient number of prison officers»), it is stated that there is an objective lack of the employed prison's staff, and the problem is mostly expressed regarding the prison's police-guard. Considering that the similar CPT's recommendation is valid also for KPZ Sarajevo, we accept with joy a recently given agreement for employment of 20 prison's policemen – guards into the mentioned Institution estimating that the same will be approved for KPZ Zenica because there is evidently a large number of overtimes every month because of the newly opened guard posts because of the increase of KPZ's accommodation space.

C. In paragraph 74, CPT states that KPZ Zenica is the only closed type prison within the Federation what “undoubtedly creates obstacles to the delivery of differentiated regimes and treatment programs tailored to individual inmates and corresponding to variables such as the type of offending behavior, length of sentence, etc.”.

In our opinion this suggestion is proper from more reasons. Zenica is the closed type only prison within the Federation and operates in very hard conditions because all or almost all convicts with a problematic behavior are sent to Zenica. We consider that with the aim of this situation overcoming it would be necessary to establish at least two closed type departments within KPZs in which exist the security conditions for that (for example: Mostar and Tuzla).

The fact that most of prisons within the Federation (Zenica, Mostar and Tuzla) have bad security standards (old Austria and Hungary buildings, ceilings and floors made of wood what is inconceivable for the European standards!), i.e. that the problem is especially noticeable in Zenica as the only closed type KPZ, in our opinion it is necessary to adopt the above mentioned suggestion of CPT, and in accordance with positive European experiences urgently find material means to establish in Zenica “prison in prison” for the convicts with problematic behavior (the Institution's Management thinks that relatively small funds would be sufficient to prepare the pavilion IV for that function).

D. In paragraph 77, is stated “Zenica must have one more physician and more medical staff with intermediate training, and the Health sector must be improved with the equipment”. In our opinion this proposal is valid and we shall include the proposed into the new Set of Rules on Internal Organization whose making is underway.

E. In paragraph 100, among other things is quoted a recommendation for the authorities to take the urgent steps in terms of filling three vacancies in the judicial psychiatry ward (full time psychiatrist, psychologist and social worker) as well as to improve significantly the team of medical personnel with intermediate specialist’s training who would be adequate skilled (where the prison’s policeman on duty – guard would only provide for an additional security, out of the department) what in fact would mean that the prison police – guard from the mentioned department is completely replaced with medical technicians.

C. Psychiatric Institutions

1. Institution for Treatment, Rehabilitation and Social Care of Chronic Mental Patients “Jakeš” Modriča
2. Clinical Hospital Srpsko Sarajevo – Psychiatric Hospital in Sokolac – Forensic Psychiatry Ward

Ad-1 (cf. pages 5 to 7 above)

We send you the Report No. 01-196/04 from the “Institution for Treatment, Rehabilitation and Social Care of Chronic Mental Patients Jakeš” Modriča, Director Mr. Cvijo Zelinčević graduate lawyer, dated July 13, 2004. Attached to the Report we send you the Decision on Defining of Rules for Prevention – Isolation of Anxious Patients (use of physical force and protection of persons with mental disorders) of May 3, 2004, No. 01-195/04.

We also send you enclosed a form – Prevention-Isolation Register

Ad-2

The Report of July 16, 2004 No. 01-1906-1 from Forensic Psychiatry Ward to the requested CPT recommendations was submitted by Mrs Lazarević dr. Zorica, the neuropsychiatrist, Head of Forensic Psychiatry Ward.

1. Number of personnel within the Forensic Psychiatry: Currently there are 88 male patients in the ward, and there are on the average 85 to 90 patients. For this number of patients are engaged: 1 neuropsychiatrist specialist (with forensic education) ward nurse, 5 nurses (one in each shift) 1 nurse-trainee currently in various positions, 1 social worker, 1 cleaning person and 9 security service members (guards). Psychologist’s services are used at the hospital level. Since February this year, a physician worked on the ward, but has been currently allocated to substitute others while on vacations.

It is impossible to continuously secure adequate surveillance of the patients with the stated number of employees.

2. Living conditions for the patients:

Living conditions of the patients on the ward of forensic psychiatry remained unchanged and nothing has been done on that matter since the visit of CPT by the Hospital management – Clinic. We believe that the living conditions and accommodation have only become worse. Condition of the sanitary-hygiene unit of the ward for forensic psychiatry is unsatisfactory due to the permanent poor maintenance.

Dormitories and lounges are without decoration and without TV in the closed section of the ward. Unused sections of the ward for forensic psychiatry are not rehabilitated in the aim of solving overcrowding in dormitories and urging the creation of workshops for working therapy.

3. External security

Nothing has been solved in the matter of external security. Security service members (guards) have engaged in private repairs of fencing of the closed section of the ward (on the windows), after the management refused to do so, after the event of escape of several patients who cut the fencing by a hacksaw.

4. Treatment and care

Individual plans of patient treatment on the ward of forensic psychiatry have been introduced for individual patients, however, due to lack of staff, we are unable to perform them on all the patients continuously.

Regular supply of medicaments is satisfactory, while supply of medicaments in ampoules is not satisfactory.

5. Personnel issues

Suggested absolute minimum of qualified medical and nursing personnel is not adhered to.

Suggested alarm-call systems for the staff of forensic psychiatry are not installed.

6. Means of prevention – isolation

Written records of application of physical prevention of movement of patients according to the CPT.

Movement prevention means (handcuffs) are still used on the ward for forensic psychiatry. Written rules on the use of isolation room have been adopted.

7. Based on the documentation from the Ministry of Health and Social Protection of the Republika Srpska, the Director of the Psychiatric Clinic in Sokolac, prim. dr. Mirjana Đerić has addressed the Ministry of Finance with a request for KM 300.000,00 for the purpose of rehabilitating the sanitary units and a part of the restaurant, which do not fulfill the requirements according to the SRT report. However, the authority Ministry denied the assistance.

8. The case of a neuropsychiatrist on the Clinic, was attempted to be solved through the process of Invalidation Commission, however there was a refusal to accept the findings of the Invalidation-Pension Commission by the above mentioned and the medical commission, and therefore the Director adopted a decision on temporary dismissal of the doctor, and mandatory medical treatment, decision No. 01-1641/04, dated June 17th, 2004.

Sarajevo, July 22, 2004

Note: Data for this report has been prepared by the Liaison Officers of the authority Ministries of the Federation of BiH and the Republika Srpska:

Federation of BiH Ministry of Internal Affairs:
Tomić Dragoljub, Liaison Officer

Republika Srpska Ministry of Internal Affairs
Petar Šikman, Liaison Officer

Federation of BiH Ministry of Justice
Rešad Fejzagić, Liaison Officer
Hidajet Jabandžić, Director of the KPZ Zenica Correctional Institution

Republika Srpska Ministry of Justice
Milan Kosović, Liaison Officer

Republika Srpska Ministry of Health and Social Protection
Dr. Stevan Jović, Liaison Officer