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**Preliminary observations made by the delegation  
of the European Committee for the Prevention  
of Torture and Inhuman or Degrading Treatment  
or Punishment (CPT) which visited Bosnia and  
Herzegovina**

**from 19 to 30 March 2007 and**

**Response of the authorities of Bosnia and  
Herzegovina**

The authorities of Bosnia and Herzegovina have authorised the publication of these preliminary observations and of their response.

Strasbourg, 16 July 2007



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**Statement by Renate KICKER, Head of delegation,  
at the meeting with the State and Entity authorities in Sarajevo on 30 March 2007,  
at the end of the third visit to Bosnia and Herzegovina  
by the European Committee for the Prevention of Torture and Inhuman or Degrading  
Treatment or Punishment (CPT)**

Ladies and Gentlemen,

We have come to the end of the second periodic visit of the CPT to Bosnia and Herzegovina. The visit has provided an opportunity to assess progress made since the first periodic visit in April/May 2003 and the ad hoc visit in December 2004. During the visit, the CPT's delegation examined the conditions of detention and treatment of persons in a number of prisons. The delegation also paid particular attention to the situation of forensic psychiatric patients, and looked into the treatment of patients at a psychiatric hospital and of residents in two social care homes. It also visited a number of police establishments with a view to examining the conditions of detention and the safeguards in place (see Appendix for list of establishments visited).

### **Co-operation**

The degree of co-operation received during the visit from the authorities of Bosnia and Herzegovina was very good at all levels. The delegation noted that, in general, information about a possible visit by the CPT, and of the Committee's mandate and powers, had been provided to places used for holding persons deprived of their liberty; consequently, the delegation had rapid access to the establishments it wished to visit, to the documentation it wanted to consult and to individuals with whom it wished to speak.

However, let me stress that co-operation also entails making concerted efforts to comply with the recommendations made by the CPT following its previous visits. In this respect, the delegation was concerned to find that no fundamental measures had been taken to improve the situation in the prisons visited or as regards forensic psychiatric patients. This clear lack of co-operation means that, if there is no prompt reaction by the authorities, the Committee may have no other choice than to consider initiating the procedure for making a public statement under Article 10, paragraph 2, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

### **Police establishments**

In the course of the visit, the delegation received a considerable number of allegations of physical ill-treatment by the police; the allegations mostly concerned kicks and punches to various parts of the body as well as blows with batons.

The majority of the allegations concerned the time when suspects were being questioned by crime inspectors in their offices, sometimes for prolonged periods, prior to being placed in holding cells. For example, two persons alleged that, over the course of 48 hours, they were repeatedly punched and kicked by police officers, and received verbal threats that their bones would be broken; one of them alleged that he was hit with the butt of a pistol. In another case, a person alleged that he had had the barrel of a pistol inserted into his mouth during questioning.

Another person stated that he was repeatedly beaten by police officers during the time of his arrest and detention. Despite being medically examined on two occasions following the beating, his injuries were not recorded. The delegation requested that a forensic medical examination be carried out, and the results of that examination confirmed the injuries already noted by the delegation's doctor. The responsible prosecutor, who had previously interviewed the detained man, expressed surprise at these findings. However, it emerged that the interview with the prosecutor had been conducted in the presence of police officers; consequently, it is understandable that no allegations of ill-treatment had been made.

The delegation also met a person who alleged to have been beaten by police officers whose injuries were subsequently recorded by the local hospital and by the prison doctor and who, moreover, had made a complaint to the prosecutor. Despite this evidence and the fact that the injuries were still visible, the prosecutor had taken no further action.

The delegation therefore urges the Ministers of Interior and Police Commissioners to deliver a strong message that the ill-treatment of detained persons is illegal, unprofessional, and will be the subject of severe sanctions. Further, the delegation requests that the Chief Prosecutors in both Entities recall firmly that prosecutors are under a legal obligation to investigate all cases of alleged ill-treatment.

The CPT attaches particular importance to three fundamental safeguards for persons deprived of their liberty by the police: the right of those concerned to inform a close relative or another person of their choice of their situation; the right of access to a lawyer; and the right of access to a doctor. Although these safeguards should, by law, apply from the very outset of deprivation of liberty, the delegation spoke with many persons who alleged that they had not been able to exercise these rights during the period of police questioning. In many cases, access to a lawyer seemed to occur only after the detained person was brought before a judge to be remanded in custody.

As to material conditions in police stations, the delegation noted that there had been some improvements in Pale but that the two cells at Mostar Centar Station were still in a very poor condition; further, the proposed cell area in Višegrad is unsuitable and should not be brought into use. Conditions in the cells at Foča Police Station were appalling; **the delegation invokes Article 8, paragraph 5, of the Convention and requests that these cells be taken out of service immediately.**

The delegation must also stress once again that there is no place within police interview rooms for items such as baseball bats, replica pistols and metal piping (with wrist straps); they should be removed immediately from all police premises where persons may be held or questioned.

### **Prison establishments**

The delegation visited Foča Prison for the first time and conducted follow up visits to Sarajevo Remand Prison and Zenica Prison. The delegation also visited East Sarajevo and Mostar Prisons, where it interviewed prisoners on remand, and it carried out a targeted visit to Dobož Prison.

In Zenica Prison, the delegation received once again numerous allegations of prisoners having been ill-treated by prison staff. The alleged ill-treatment consisted mainly of kicks, punches and blows with truncheons. Such ill-treatment apparently took place in, or during transfer to, the disciplinary cells of Pavilion II. Some of the allegations were backed up by medical evidence.

The delegation supported the request by the management of Zenica Prison that the State Ombudsman launch an immediate inquiry into the allegations of ill-treatment. Further, the delegation informed the Chief Prosecutor of the Federation of Bosnia and Herzegovina about its findings. **The CPT's delegation would like to receive information, by 31 May 2007, on the results of these investigations.**

The case of a prisoner who died in Pavilion II of Zenica Prison after he had been brought back from the hospital, where he had been treated for a drug overdose, was also examined. The CPT's delegation requests that a thorough investigation by an independent body be conducted into the circumstances surrounding the death of this prisoner, including the period leading up to his hospitalisation and his subsequent treatment in prison. **The delegation would like to receive, by 31 May 2007, the results of that investigation as well as a copy of the autopsy report.**

Some of the allegations of ill-treatment referred to above concerned the excessive use of force by staff at Zenica Prison in breaking up fights among prisoners. In this respect, the delegation was concerned by the lack of guidelines for prison staff as regards the use of means of coercion at their disposal. For example, the delegation learnt that pepper spray, which is potentially very dangerous, has been made available to all prison officers in the establishments visited and may be used by staff at their discretion without any proper system of reporting and monitoring in place. **The delegation would like to receive information, by 31 May 2007, on the measures taken to introduce proper guidelines and recording procedures for the use of means of coercion.**

The delegation is also seriously concerned about the inter-prisoner violence that appears to be prevalent in the prisons visited. In Zenica Prison, it heard about a number of incidents of inter-prisoner violence, which in at least one instance included one inmate being ordered to kill another prisoner. Not surprisingly, certain prisoners appeared to be fearful for their safety.

As concerns inter-prisoner violence in Foča Prison, the delegation was informed by a number of prisoners that this had diminished considerably following the transfer elsewhere of a certain prisoner. Therefore, until such time as the new high security unit is operational within Foča Prison, the Governor's reluctance to re-admit this prisoner appears well-founded.

As concerns the disturbance at Dobož Prison on 28 March 2007, the CPT's delegation had an opportunity the following day to speak with staff and prisoners (including the two prisoners who were transferred to Banja Luka Prison). It was immediately apparent that Dobož Prison was inappropriate, as well as being insufficiently staffed, for accommodating sentenced prisoners of the category currently being held there. Further, it was clear that, in the non-remand section of the prison where the riot had occurred, the inmates, and not the prison officers, were in a position of control. Moreover, the delegation learned that a group of prisoners had been using violence to control other prisoners, with seeming impunity. According to the interlocutors with whom the delegation spoke, the attempted killing of two prisoners by a much larger group was the culmination of long standing tensions and a history of inter-prisoner violence in the establishment. Although the extent of the injuries to prisoners in the course of the riot was limited (e.g. fractured bones), two fatalities were only narrowly avoided. The authorities must continue to offer the two transferred prisoners protection within the prison systems of Bosnia and Herzegovina, knowing that they remain at serious risk from other prisoners.

Unfortunately, such incidents are to be expected given the inadequate prison estate, combined with insufficient staffing and a lack of a coherent prison policy and clear prison procedures. Unless concerted action is taken to tackle their underlying causes, they are likely to multiply not diminish. **The CPT's delegation would like to receive the report of the investigation into the Dobož Prison disturbance and information, by 31 May 2007, on the measures being taken to prevent the re-occurrence of such an incident.**

The accommodation of young offenders in the admission ward of Foča Prison also gives grounds for serious concern. The current practice of placing juveniles together with older inmates in the admission unit is contrary to the principle of separation of juveniles and adults and totally unsafe. **The delegation would like to receive information, by 31 May 2007, on the measures being taken to ensure that juveniles are never placed together with adults.**

In all prisons visited, there was a lack of appropriate accommodation both for vulnerable prisoners and for those requiring increased levels of security. In Zenica Prison, a unit was under construction for the separate accommodation of vulnerable prisoners and plans to transform the forensic psychiatric annexe into a high security unit were being mooted. In Foča Prison, work was already underway to create a high security unit. Such units are sorely needed; there are currently no safe and secure facilities in which to hold dangerous prisoners at either State or Entity level, as the findings from this visit illustrate all too clearly.

Material conditions of detention in the prisons visited left much to be desired. In particular, at Sarajevo Remand Prison the appalling conditions described in the report on the 2003 visit persist; a progressive renovation of the cellular accommodation throughout the prison is necessary. Certain of the establishment's isolation cells (73b, 77 and 80) are in such a poor condition that they are currently not suitable for holding human beings; **the delegation invokes Article 8, paragraph 5, of the Convention and requests that these cells be taken out of use immediately.**

Other issues such as activities for prisoners, health care services, staffing, complaints and inspections will be elaborated upon in the visit report.



### **Psychiatric establishments**

The delegation re-visited Sokolac Psychiatric Hospital, in particular the forensic wards and the male acute ward, as well as the forensic psychiatric annexe in Zenica Prison.

The delegation was informed that the former forensic unit at Sokolac Psychiatric Hospital was burnt down by patients in April 2006. The unit's patients are now accommodated in a small two-storey building that has been converted in a makeshift manner.

As regards ill-treatment, unlike in previous visits, the delegation heard no allegations of physical ill-treatment of patients by staff in the wards visited; nor did it hear of any recent incidents of serious inter-patient violence.

As for material conditions, some attempts have been made to improve conditions within the male acute ward at Sokolac Psychiatric Hospital. However, the conditions within the forensic wards are still not acceptable; in particular, the locked ward is extremely cramped and overcrowded, holding up to 30 patients in three small dormitories. There is virtually no space between the beds and, at times, groups of three patients have to share two beds. For lengthy periods of the day, patients are locked out of their dormitories and confined to a narrow corridor and small day area, where some sit or lie on the floor due to a lack of seating. The only outdoor exercise facility available to patients on the locked ward is a small cage that has been attached to the side of the building, into which all patients are placed during good weather but which does not afford enough space for them to walk around properly.

Despite the urgent recommendations made by the CPT in its reports on the 2003 and 2004 visits, patients continue to be placed at risk by having to eat in the hospital restaurant, which is in a state of terminal structural collapse. **The delegation wishes to be informed, by 31 May 2007, about the measures being taken to remove this danger.**

As regards Zenica Prison forensic psychiatric annexe, although it was less crowded than during previous visits, the material conditions have continued to deteriorate and remain wholly unacceptable for a health care institution.

The treatment for patients on all the wards visited relied virtually exclusively upon pharmacotherapy. There was an almost total lack of meaningful activity, which is particularly serious for those patients confined to their wards.

Regarding staffing levels, the delegation noted that, at Sokolac, there had been some increase on the forensic psychiatric wards. However, on all the wards visited the level of staff-patient interaction remains inadequate for meaningful therapeutic engagement and there is still a lack of a multi-disciplinary clinical treatment approach and individualised treatment plans.

As regards means of restraint, although specially designed leather straps had been purchased at Sokolac Psychiatric Hospital, the delegation saw sets of metal handcuffs which continued to be used to fixate disturbed patients, without direct and continuous supervision, to their beds or heating pipes. On both previous visits, the CPT stressed that metal handcuffs are a totally unacceptable means of restraining patients in a health care establishment. **The delegation wishes to receive written confirmation, by 31 May 2007, that all handcuffs have been removed from the hospital, and that patients who require restraint by other means are always the subject of direct and continuous staff supervision.**

At Zenica Prison forensic psychiatric annexe, the conditions in the isolation room remain very unsafe for the placement of disturbed psychiatric patients.

As regards legal safeguards, the delegation is concerned by the practice at Sokolac Psychiatric Hospital whereby patients admitted to the male acute ward were told they would be subject to a longer involuntary hospitalisation if they did not sign a written consent to voluntary hospitalisation and to all treatment. Such a practice, on this and other wards, must be ended immediately.

As regards the future arrangements for forensic psychiatric patients, the CPT notes that there is agreement across all levels of government in Bosnia and Herzegovina that the existing forensic psychiatric facilities, at Sokolac Psychiatric Hospital and Zenica Prison, need to be replaced with a single, State-level, facility for the whole country. Despite this agreement there appears to be limited tangible progress and the CPT's delegation is concerned by the lack of a multi-professional strategic planning process. Such a process should involve all relevant stakeholders in order to ensure that the proposed new facility provides appropriate and safe conditions, is adequately staffed and properly resourced. Taking into account these requirements and the legal complexities, there needs to be a clear and realistic timetable for the implementation of this project. Within this context, a planning team should also be tasked with addressing, in the meantime, the above-mentioned shortcomings related to the care of forensic psychiatric patients currently held in Sokolac Hospital and Zenica Prison, in order to ensure that at least minimum standards of care are met. **The delegation would like to receive information, by 31 May 2007, on the concrete steps being taken to address this highly unsatisfactory situation.**

### **Social care homes**

The CPT's delegation visited for the first time the Fojnica "Drin" Home for Mentally Disabled Persons and the Višegrad Institution for the Protection of Female Children and Youth.

With regard to ill-treatment, the delegation heard no allegations of physical ill-treatment of residents by staff. On the contrary, the delegation observed generally positive and caring relations between residents and staff, and that staff appeared to be doing their best to care for high numbers of challenging residents.

However, at the Višegrad Institution, residents were at risk of being pushed, slapped and verbally abused by other residents. Such incidents can largely be attributed to the insufficient staff numbers, an inadequate regime and a reliance on improvised interventions by other residents to restore some order to a chaotic environment.

The material conditions were generally satisfactory at both institutions.

Both institutions offered treatment to a very heterogeneous mix of residents (children, adults, old persons, the mentally and physically handicapped and psychiatrically ill) who required diverse treatment combining medication, physical care and psycho-social rehabilitation. However, the limited therapeutic and educational opportunities meant that most residents spent their days in overcrowded day-rooms with little to do. Such a lack of stimulation increases the institutionalisation of residents. The delegation believes that all residents placed in social care homes should benefit from an individualised therapeutic approach in living and educational facilities specifically designed for their age group; this is particularly true for children.

With regard to staffing, both institutions had a severe lack of ward-based and other therapy staff, a state of affairs which was the direct cause of many of the shortcomings identified; neither establishment had a psychologist and the psychiatric input was limited. In particular, “Drin” should have the services of a full-time psychiatrist. Further, all staff should receive initial and in-service training.

As for the use of soft restraints and isolation, an operational policy should be drawn up in both institutions and all restrained or isolated residents should be the subject of direct and continuous supervision. The use of chains and padlocks to fix two of the residents in “Drin” for most of the time, and a third resident on occasion, is unacceptable; there must be renewed efforts to find an alternative. **The delegation requests a written report, by 31 May 2007, on alternative strategies and how necessary resources will be found so that such chaining can be stopped.**

With regard to legal safeguards, the delegation is concerned at the lack of involvement of residents’ legal guardians and the absence of any independent review of detention. The fact that there is no law governing social care homes in the Federation of Bosnia and Herzegovina is another fundamental shortcoming, thus requiring them to operate in a legal vacuum without the necessary support from, and monitoring by, the authorities. **The delegation would like to receive information, by 31 May 2007, on the steps being taken to develop a coherent policy, including a proper legal basis, for social care homes.**

Finally, when an individual residing in a social care institution dies unexpectedly, there should be an internal inquiry and an independent external investigation. In this respect, the delegation requested that an inquiry into a recent death caused by injury as well as other recent unexpected deaths at the Višegrad Institution be carried out, and that the results of these inquiries be submitted to the CPT.

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The issues outlined in these preliminary remarks, as well as other matters, will be elaborated upon in the visit report. The report will be forwarded to the authorities of Bosnia and Herzegovina in July 2007. Of course, the information and comments provided in response to the delegation’s remarks will be taken fully into account when the visit report is drafted.

## APPENDIX

### Police establishments

#### *Federation of Bosnia and Herzegovina*

- Goražde Police Station, Canton of Bosna Podrinje
- Konjic Police Station, Canton of Herzegovina-Neretva
- Mostar Centar Police Station, Canton of Herzegovina-Neretva
- Novo Sarajevo Police Station, Canton of Sarajevo
- Zenica Police Station, Canton of Zenica-Doboj

#### *Republika Srpska*

- Bratunac Police Station
- East Sarajevo Police Station
- Foča Police Station
- Pale Police Station
- Srebrenica Police Station
- Višegrad Police Station

### Prison establishments

#### *Federation of Bosnia and Herzegovina*

- Remand section of Mostar Prison
- Sarajevo Remand Prison
- Zenica Closed Prison

#### *Republika Srpska*

- Remand section of East Sarajevo Prison
- Foča Closed Prison

The delegation also interviewed certain prisoners and members of staff at Banja Luka and Doboj Prisons

### Psychiatric institutions

#### *Federation of Bosnia and Herzegovina*

- Forensic Psychiatric Unit in Zenica Prison

#### *Republika Srpska*

- Sokolac Psychiatric Hospital, Republika Srpska

### Social care homes

#### *Federation of Bosnia and Herzegovina*

- Fojnica "Drin" Home for Mentally Disabled Persons

#### *Republika Srpska*

- Višegrad Institution for the Protection of Female Children and Youth

**The report of Bosnia and Herzegovina Authorities  
regarding the statement given by the Delegation of the European Committee for Prevention  
of Torture and Inhuman or Degrading Treatment or Punishment (CPT)  
in Bosnia and Herzegovina  
- the second periodic monitoring**

After the second periodic CPT visit to Bosnia and Herzegovina held from 20 to 30 March 2007 and the final comments given at the meeting with the representatives of Bosnia and Herzegovina authorities (responsible ministries of BiH, entities and the District of Brcko, State Border Service, State Investigation and Protection Agency) and the Ombudsman's Office in Bosnia and Herzegovina, the CPT Delegation gave a statement to Bosnia and Herzegovina authorities concerning urgent action, implementation of ordered measures, and putting in place of appropriate guidelines and procedures in places where persons were deprived of their liberty against their will in Bosnia and Herzegovina.

Bosnia and Herzegovina authorities were requested to submit the Report on ordered measures until May 31, 2007.

Following the aforesaid the further text of this Report includes contents of written input/responses by Bosnia and Herzegovina authorities, which were done in the most competent, exhausting and precise way, and the BiH Ministry for Human Rights and Refugees, acting as the coordinator of the activity, has not made any intervention in the contents of the texts of the responses obtained by the responsible representatives of Bosnia and Herzegovina authorities, so the texts of the responses of the responsible ministries of entities and BiH Ministry of Justice are included in this Report of Bosnia and Herzegovina authorities in their original contents and form.

The integral part of this Report of Bosnia and Herzegovina Authorities is the Report on investigation of circumstances of the death of the prisoner A in Zenica closed prison on 13 November 2006.

Independent investigation was carried out by the body composed of two physicians neuropsychiatrists and a specialist of traumatology psychology, based upon the Decision made by the minister of the BiH Ministry for Human Rights and Refugees.

**POLICE INSTITUTIONS**

**- Federation BiH Ministry of Interior**

Regarding the statement given by the Delegation of the European Committee for Prevention of Torture and Inhuman and Degrading Treatment or Punishment (CPT) the Federation Ministry of Interior undertook the following activities:

The Minister and the Director informed the ministers and the commissioners of the cantonal ministries of interior, by the act number 09-04-3-2305 of 27 April 2007, on the content of the given statement, i.e. on preliminary comments of the CPT Delegation and forwarded the request of the CPT Delegation regarding need to give their ministries clear message that ill-treatment of persons deprived of their liberty is illegal and unprofessional and that it will be subject to severe sanctions, to undertake appropriate measures to fully implement three basic human rights of the persons deprived of their liberty by the police, which were mentioned in the CPT preliminary comments and not to have any objects in the police premises for interviews which CPT Delegation requested to be removed, and to inform this Ministry and send information and comments as response to presented remarks. Furthermore, the Ministry of Interior of Herzegovina-Neretva Canton was asked to advise this Ministry on measures undertaken or measures to be undertaken to enable two cells for which the CPT Delegation said were still in poor state.

On 27 April 2007 the Director of the Federation Police Headquarters sent the act number: 09-04-3-2305 to the Chief Federation Prosecutor, Mr. Zdravko Knezevic, informing him on the preliminary comments of the CPT Delegation regarding physical ill-treatment of persons deprived of their liberty by the police.

The act transfers the request of the CPT Delegation to remind clearly chief prosecutors in both entities that prosecutors are under legal oath to investigate all cases of alleged ill-treatments. The Chief Federation Prosecutor was briefed of the above said for the sake of information and acting, and he was asked to send us information and comments as response to given remarks. It is said that the Ministry for Human Rights and Refugees would appreciate as useful to be given data on cases processed in 2006 and this year or being in process, according to which the Prosecutor's Office acted and which concern ill-treatment of the persons deprived of their liberty by the police officers.

In connection with this the Federation Prosecutor's Office informed us that it requested from all 10 cantonal prosecutor's offices in the BiH Federation the figures regarding the processing of cases in 2006 and this year upon which they acted and which essentially concern ill-treatment of the persons deprived of their liberty by the police officers. They will advise us on this check-ups in due time and we will forward it to you. Regarding the allegations for several concrete cases in which suspected persons were physically and mentally ill-treated by authorized police officials, the prosecutor's Office thinks that it is necessary to inform the responsible cantonal prosecutor's office on each concrete case, collect under its auspices all information that might be useful in the criminal proceeding and to submit the report to the prosecutor's office on the committed criminal act as the prosecutor's office and the police are undisputedly under clear legal obligation to investigate all cases of alleged ill-treatment. The Prosecutor's Office asked us to inform them on our action regarding the preliminary comments by the European Committee for Prevention of Torture and Inhuman or Degrading Treatment or Punishment. It was also requested to supply information on cases mentioned in the information where persons deprived of liberty by the police were mentioned and where the cantonal prosecutor's office was informed and apparently it did not undertake any legal action in order to investigate the accuracy of the allegations on ill-treatment, so the Federation Prosecutor's Office could check the legality of acts undertaken by the responsible cantonal prosecutor's office. We shall send the copy of this notice to the Federation Prosecutor's Office with the remark that the CPT Delegation did not mention in which police stations and places ill-treatment took place according to their resources of information, and the remark that there was a question made at the meeting held with the CPT Delegation by the representative of the Ministry of Interior (MUP) of the Republika Srpska regarding the police station where the said ill-treatment incurred and when the Delegation Head said that it concerned the police station in Pale.

On 27 April 2007 the Director of the Federation Police Headquarters sent the act number: 09-04-3-2305 to the chiefs of the organizational units of the Federation Police Headquarters informing them on the preliminary comments by the CPT Delegation and stressing again that it is necessary to point out that ill-treatment of persons deprived of their liberty is illegal and unprofessional, and that any case of ill-treatment will be processed as priority, and perpetrators severely sanctioned. It was requested to strictly implement the provisions of the Guidelines on Procedure with persons deprived of their liberty made by the Director under number: 09-14-04-7-199 of 22 March 2006 and to ensure full exercise of three fundamental rights of persons deprived of their liberty mentioned by the CPT Delegation and to remove from the police premises the objects that the CPT Delegation requested to be moved.

However, the Federation Police Headquarters ensured that the police officers treat the persons deprived of their liberty in accordance with the Article 5 of the Law on Criminal Proceeding of the Federation of BiH, so that they are briefed in mother tongue on the reasons of their deprivation, on the right to take lawyer of their own choice, on the right that their family, the consular officer of the country of their citizenship or other persons named by the person deprived of his liberty, be notified on their deprivation, and on the right of access to a doctor from the very beginning of deprivation. The Guidelines on Procedure with persons deprived of their liberty regulate the manner of acceptance of persons deprived of their liberty in the custody premises, way of their accommodation, health and hygienic conditions and food, registers and accompanying documentation in connection with the official action of deprivation, obligation of police officers towards the persons deprived of their liberty. Five premises for accommodation of the persons deprived of their liberty were put into function. These premises meet the standards required for this purpose and dispose of the video supervision. The unit for professional standards carries out supervising inspection within its responsibilities in this field, and it is responsible to act upon appeals of the persons deprived of their liberty. There have been no complaints so far made by the persons deprived of their liberty on the work of the officers of the Federation Police Headquarters.

As for the statement given by the CPT Delegation Head on poor state of the detention premises of the Center Police Station of the Mostar Police Headquarters in Mostar, the Ministry of Interior (MUP) of Herzegovina-Neretva Canton informed us that this MUP is aware of material condition of the buildings and premises used by the employees, especially they are aware of conditions-state of the premises for detention of persons deprived of their liberty. In order to rehabilitate these premises certain measures had been earlier undertaken to make them suitable for detention of persons. So the construction engineer completed almost all preparative works for commencement of civil works (compilation of documents) on rehabilitation of not only the detention premises in Center-Mostar PS, but also detention premises located in other organizational units not fulfilling the prescribed requirements for stay of the persons deprived of their liberty. Since the CPT Delegation remarks are of material nature, which requires financial resources to be solved, the Ministry of Interior of Herzegovina-Neretva Canton will take this as priority and set to its realization as soon as the necessary money has been ensured.

The Ministry of Interior of Sarajevo Canton has undertaken necessary action in order to prevent and remove defects mentioned in the preliminary comments by CPT. The Minister and the Police Commissionaire held a meeting where they stressed importance of legal and professional treatment of the persons deprived of their liberty. It was also clearly stated that ill-treatment is illegal and unprofessional and it represents criminal offence and serious duty offence and all such cases will be immediately investigated and processed. The measures have been undertaken to remove all objects from all police premises for interviews and detention, such as baseball bats, metal pipes, gun replicas etc. The order was given to ensure that persons deprived of their liberty enjoy the right to inform close relatives or third person on their situation, right to lawyer and access to doctor.

The Ministry of Interior of the Canton 10 - Livno informed us that the rights of persons deprived of their liberty by the police are fully respected and protected, especially three rights mentioned in the preliminary observations of the CPT Delegation. In official premises there are no objects for which the mentioned Delegation thinks should not be in. In the past period necessary measures and action have been undertaken to rehabilitate and adapt the detention room for persons deprived of their liberty in order to ameliorate their conditions. It is also said that the Federation Police Headquarters act on preliminary observations of CPT Delegation was forwarded to canton police stations in order to ensure full implementation of regulations.

The Ministry of Interior of Posavina Canton informed us that after analysis and insight into prescribed records on persons deprived of their liberty they could state with pleasure that in their Ministry there were no breaches of legal rights of persons deprived of their liberty. There was neither ill-treatment of detained persons nor illegal or unprofessional behavior with such persons. This Ministry will keep on treating persons deprived of their liberty according to their legal rules while ensuring that all employees exercising police and other authorities get clear message in this sense.

The Ministry of Interior of Middle-Bosnian Canton informed us that at deprivation of liberty they acted pursuant to the Law on Criminal Procedure of Federation of BiH, Manual on Procedures and Guidelines and Instruction on procedure with persons deprived of their liberty. At deprivation persons are informed on their rights, especially on three rights mentioned in preliminary observations of CPT Delegation. All police headquarters and police stations of the canton were immediately briefed on the act of Federation Police Headquarters regarding preliminary observations of CPT Delegation and their attention was focused to strict adherence to all procedures with persons deprived of their liberty, and that any breach will be subject to severe sanctions.

After receipt of our notice on preliminary observations of CPT Delegation, the Ministry of Bosnian-Podrinje Canton had immediately forwarded it to heads of organizational units of the Police Headquarters. The Police Commissionaire issued instructions for all police officers to be advised on the report and to direct their attention to the fact that ill-treatment of detained persons is illegal and unprofessional and is subject to severe sanctions. The request was sent to the Minister's Cabinet for additional adaptation of detention premises and equipping them with necessary facilities, in compliance with the democratic principles and standards, which was done by the Directorate for Administration and Support.



The Ministry of Zenica-Doboj Canton informed us that they did analysis of issues concerning treatment of persons deprived of their liberty and they stated that in the last few years there have been no records on treatment and procedures mentioned in preliminary observations of CPT Delegation. In the past period there were some activities undertaken to educate police officers on this matter. Instructions on behavior of police officers and guidelines and procedures of democratic work of the police regulate behavior and relation of police officers while performing their regular jobs and tasks (deprivation of liberty, use of coercion means, detention etc.). Any behavior contrary to positive regulations is subject to disciplinary and criminal responsibility. Records were introduced in all organizational units in regard of deprivation of liberty, detention, use of coercion means etc. Enjoying all three rights of persons deprived of their liberty mentioned in preliminary observations of CPT Delegation is being ensured.

The detention premises are mainly arranged as per required standards and criteria set out by international organizations and they provide safe stay and necessary hygienic conditions. Recently the focus of monitoring of compliance with regulations, measures and action are the police criminal departments, which includes control of premises, office furniture etc. in order to respect prescribed procedures. The police officers in organizational units with detention premises were tasked to follow the required procedures with detained persons and ensure that they enjoy full protection and guarantee their human rights and that these persons cannot be subject to any ill-treatment or other form of torture.

The Ministry of Interior of Tuzla Canton informed us that they are preparing documents upon observations of CPT Delegation with concrete orders to all Police stations and Units for discovery and prevention of crimes, on treatment of persons deprived of their liberty, especially focusing on observations by CPT Delegation. This Ministry has four arranged premises for detention of persons deprived of their liberty, acceptable per regulations. So far there have been no recorded cases of ill-treatment of persons deprived of their liberty in the mentioned premises, nor in the premises for informative conversations.

The Ministry of Interior of Una-Sana Canton informed us that the Police Headquarters and its organizational units have eight premises for detention of persons deprived of their liberty. They are in good condition and functional in accordance with the Instructions on treatment of persons deprived of their liberty. The relation of police officers towards persons deprived of their liberty and persons remanded in detention premises is correct and professional. The Unit for professional standards carried out internal investigations in cases of citizens' complaints on inhuman treatment and alleged physical torture and in majority of cases they were assessed as unfounded.

The Ministry of West Herzegovina Canton implement provisions of the Law on Criminal Procedures in treatment of persons deprived of their liberty and there have been no misuse of such provisions. The premises for accommodation of persons deprived of their liberty are in good condition. The police commissioner will send an act in connection with preliminary observations of CPT Delegation to Police stations on the territory of this canton in which he will stress the ban of keeping certain objects mentioned in CPT observations in the premises for conversations with persons deprived of liberty.

**- Ministry of Interior of Republika Srpska -**

After receipt of the report of Mrs Renate Kicker, Head of Delegation of European Committee for Prevention of Torture and Inhuman and Degrading Treatment or Punishment which contains assessments and observations during the visit to organizational units of the Ministry of Interior of Republika Srpska, the following measures and actions have been conducted in order to remove negative issues in connection with treatment of persons deprived of their liberty:

1. The excerpt from the statement of the Delegation of European Committee for Prevention of Torture was sent to all organizational units of the Ministry of Interior of Republika Srpska in order to brief them on recommendations and comments and to make them undertake action to remove negative issues. This opportunity was used:
  - 1.1 to focus attention to all members of the Ministry of Interior of Republika Srpska that during interrogation of the suspected person and hearing of witnesses they must act in accordance with the Law on Interior Affairs, Law on Criminal Procedure and Criminal Law, that they must respect their rights as enshrined by international conventions on protection of human rights and freedoms as well as in compliance with the Article 5 of the Law on Criminal Procedure, namely: to be notified in mother tongue or tongue of understanding on reasons of deprivation of liberty and prior to first confrontation to be briefed that he is not obliged to give statement, that he has right to lawyer of his own choice, and that his family or third person by his own choice has right to be notified on his deprivation of liberty.
  - 1.2 to let all police officers be aware and warned that possible treatment contrary to the law and overdosed and unnecessary use of force contrary to the legal regulations will be subject to disciplinary and criminal responsibility of members of the Ministry of Interior of RS.
  - 1.3 to warn on obligation to strictly obey the provisions of the Law on Criminal Procedure (Art. 196 of LCP) at deprivation of persons and their detention and provisions of the Regulations on manner of treatment with persons deprived of liberty. The Article 196 of the Law on Criminal Procedure provides that police officer may deprive of liberty a person under suspicion to have committed crime and if there is reason enshrined by the Article 189, but he is obliged to take this person to the prosecutor without delay and not later than within 24 hours. At taking the person to the prosecutor the police officer will inform the prosecutor on reasons and time of deprivation of liberty. The prosecutor is obliged to interrogate such person without delay and not later than within 24 hours and to decide in that term whether the person deprived of liberty will be released or sent to the judge to lodge the request for remand.
  - 1.4 to order to pay special attention in coming period to education of police officers in prevention of torture, inhuman and degrading treatment or punishment, and to organize additional training to that matter.

- 1.5 to order to keep prescribed records in future on every person deprived of liberty and fill in documents for that purpose.
- 1.6 to order to all organizational units of the Ministry of Interior to keep the detention premises regularly and properly maintained as prescribed with satisfactory hygienic conditions.
2. The services of the Ministry of Interior responsible for control of legality of work of organizational units of the Ministry of Interior of Republika Srpska were ordered to pay special attention during their regular and special control of work to legality of treatment of persons deprived of liberty, and to undertake sanctions as regulated by the law in order to make torture and inhuman and degrading treatment or punishment the least possible with the Ministry of Interior with tendency to eliminate it completely.
3. As suggested in the report, the detention room in the Police station in Visegrad was not put into operation, and the detention room in the Police station in Foca was put out of function until the minimum necessary conditions have been fulfilled. The rehabilitation activities regarding remand premises are in progress in these police stations. The financial bill is made and as soon as the required money is provided the civil works on rehabilitation of these premises will start to make them meet the required conditions and standards.

- **Ministry of Justice of Federation of BiH** -

Enclosed are the following answers - written reports required by Mrs Renate Kicker, Head of CPT Delegation after the third CPT visit to Bosnia and Herzegovina and presenting their final observations:

- I. Concerning the parts of the report regarding the visit to Zenica Closed Prison, we asked for and received the following statement:
  1. What is the knowledge of the responsible persons in Zenica Closed Prison, on alleged ill-treatment of convicted prisoners by the prison personnel (hit by hand, leg, official bat), are such cases treated in accordance with the ZIKS Law and Books of Regulations.  
Page 3, paragraph 2 of the Statement of Renate Kicker, Head of CPT Delegation, at the meeting with representatives of the state and entity authorities in Sarajevo, held on 30 March 2007 (hereafter: Statement)

**Director's Statement:**

In connection with your first question regarding our knowledge on alleged ill-treatment of disciplinary punished prisoners by the prison personnel, and whether such cases are treated in accordance with ZIKS and Books of Regulations I can say the following:

Until the last visit of CPT Delegation to this institution there existed regular practice that each case of use of means of force against the convicted or remanded persons undergoes checking in a way that the assistant director of the Security Sector asks for written reports from the prison police officers - guards, to compile them, and to submit the report on use of force against the convicted/remanded persons to me as the director of the institution. After considering the reports that normally provided that the use of force was within legal terms, i.e. in accordance with ZIKS and Books of Regulations, and after I personally found the same while reading the reports, I would send the mentioned report to the Federation Ministry of Justice as superior institution. In most cases the Federation Ministry of Justice would get back with a written consent, approval for use of coercion in individual cases and in this way such case would be finished as for the use of coercion.

After the visit of CPT Delegation and receipt of the Statement of the Head of Delegation in written form I immediately asked from the assistant Director of the Security Sector the written report on alleged ill-treatment of prisoners "in disciplinary cells of the second pavillion or during moving to them" (page 3 of the Statement, paragraph II). After receipt of the report (enclosed herein) I studied it in detail and noticed some illogic points.

On one hand, all employees of the Security Sector state in the mentioned papers that the detention of the prisoner B was in accordance with regulations, i.e. the minimum use of force. On another hand, the statement of the prisoner B is full of statements that he was beaten by the members of the Security Sector. The written statement of the prisoner B is supported by the prison doctor's findings with diagnoses which translated from the Latin language says that the named person got many injuries (haematoma in the area of external margin of his left eye, state after contusion of both loins, haematoma and swell on the back both sides, state after contusion and haematoma of the front part of right upper leg).

The statement of the second convicted person, prisoner C, is confused. In his first statement he speaks about physical torture while in the second one he denies it so it is not clear if there really was any physical torture or if the prisoner denies it under some pressure.

The said information does not contain the statement of the Security Sector from the disciplinary department where both convicted persons were placed although by CPT possible ill-treatment took place "in disciplinary cells of the II pavillion or during moving to them" (page 3 of CPT information, paragraph II) nor is there a written statement of the medical orderly who checked the prisoner B and found only scratch on the head (written report of the supervisor Fejzic).

Taking into consideration all said above, I, as the director of this institution, think that there is possibility that some members of the Security Sector exceeded their official authorities either by use of overdosed force or by writing non-objective reports.

Due to serious situation that incurred for the management of this Institution and , Federation Ministry of Justice, I propose that the Federation Ministry of Justice forms a Commission that would confirm if the case in question had breaches of human rights against the said convicted persons, i.e. possible ill-treatment during official duty.

Given that I received the request for information from the cantonal chief prosecutor of Zenica-Doboj Canton whether I was notified on ill-treatment of the prisoner in Zenica Closed Prison, and in connection with CPT visit, I state here that I responded to the said request in a way that I sent the chief prosecutor the supporting documentation supplied to me by the assistant director of the Security Sector, with my own comments for the documents. I also held a meeting with the chief prosecutor on 10 May 2007 when he asked me to pay special attention to this file (enclosed here I am sending the letter to the chief Prosecutor regarding the case in charge of 09 May 2007).

I also state that in one case, after the letter I received by the prisoner D, I launched the disciplinary procedure against the guards E, F, G and H, who allegedly physically ill-treated the said prisoner (enclosed is the copy of the decision by the Disciplinary Commission number 03/04 of 24 May 2005). The Disciplinary Commission found out that there was no physical ill-treatment in the said case.

2. Did the Federation Prosecutor' Office (or some other competent investigation body) do investigation and what were their reports.

Page 3, paragraph 3 of the Statement

**Director's Statement:**

In connection with your second question - whether the Prosecutor's Office of Federation of BiH or some other responsible body conducted investigation and what their reports were I state that according to my knowledge only one investigation was conducted by the Cantonal Prosecutor's Office of Zenica-Doboj Canton, in the case of death of the prisoner J, because of alleged overdosed drug intake. At the meeting I had on 10 May 2007 with the Chief Prosecutor I was told that I could not obtain documentation in connection with mentioned investigation regarding the legal procedure, but that the Chief Prosecutor would notify the Federation Prosecutor on results of the investigation. The Chief Prosecutor told me at that occasion that the investigation for that case was completed and that the cause of death was poisoning from overdosed drug intake.

3. Disregarding the fact that this Ministry received the first report on the death of a prisoner in the medical solitary cell, has any independent body conduct detailed investigation and what the results of it were. Especially pay attention to lack of continuous monitoring by guards and medical staff from the moment of getting the prisoner into the solitary cell to the moment of death confirmation.

Page 3, paragraph 4 of the Statement

**Director's Statement:**

Regarding your question if any independent body carried out a detailed investigation and what its results are concerning the death of J in the medical solitary prison cell, besides the Prosecutor's office of Zenica-Doboj Canton (mentioned in II question), there was also visit by the delegation of the State Ministry for Human Rights, on 09 May 2007, headed by Mrs Minka Smajevic to whom the prison management gave all file documentation and other information to be able to form their judgment on the given case.

Regarding your request concerning alleged lack of continuous supervision by guards and medical staff from the moment of accommodation in the solitary cell to the moment of death records we send you full documentation in connection with the disputed case. It could be concluded from the presented documentation that after taking the said prisoner to Zenica hospital he was taken back to prison and accommodated in the prison in-patient premises. The said prisoner took out infusion in the prison in-patient premises, began breaking, became verbally and physically aggressive towards personnel and that was the reason why, because of his destructivity and self-destructivity, he was transferred to the medical solitary cell of the disciplinary department of the II pavillion where he was under continuous video monitoring, and visited within short intervals by guards and medical orderly. However, the health condition of the prisoner J deteriorated and he died despite quick intervention by the guards and medical orderly (supply documentation on J).

4. List all provisions of regulations regulating action of the prison personnel at prevention and stoppage of conflict among prisoners, focusing especially to instructions regarding use of chemical substances, and how many cases of such interventions there were.

Page 3, paragraph 5, of the Statement

**Director's Statement:**

Enclosed please find the Report of the assistant director of the Security Sector that contains description of the rules regulating procedure of the prison personnel at prevention and stoppage of conflict amongst prisoners, as well as instruction and provisions regarding use of chemical substances and description of the case

5. List cases of violence among prisoners and especially the case when a prisoner was ordered to kill another prisoner. How much risk is there to have grave endanger of safety of certain prisoners and what measures are undertaken to remove such safety risk.

Page 3, paragraph 2, of the Statement

**Director's Statement:**

As enclosure we send the report of the assistant director of the Security Sector that describes cases of violence among prisoners. We do not dispose of precise information regarding the exact number of individual prisoners who want to kill or harm another individual prisoners, but I think that this does not concern individual cases. One of serious reasons why there are such cases in this institution is the fact that pursuant to ZIKS this is the only closed prison in Federation of BiH, so it is very difficult in procedure to transfer problematic prisoners into other prisons of semi-open type. The management has pointed out to this problem many times during last years without significant response.

Another big problem raising risk of having endangered safety of some prisoners is constant overcrowdness of prisons, collective system of serving sentence that functions with relatively low level of security monitoring due to insufficient staffing, number and dispersed facilities within the jail compound.

The prison management tries to keep control over this problem by strengthened work of the prison police - guards, increased involvement of educators and other staff and it mostly succeeds in doing so, but this problem is of progressive nature unless there come important systematic advances in the prison system.

6. Does the treatment of persons under measures of compulsory psychiatric treatment consist only of medicament therapy or there are other sophisticated activities that might contribute to enhancement of their health.

Page 5, paragraphs 6 and 7, of the Statement

**Director's Statement:**

In response to your inquiry regarding the therapy spectrum of persons under measure of compulsory psychiatric treatment I think that medicament therapy is practically the only method applied (except for provision of suitable premises and time for walk in open air and doing physical exercises on a sport poligon following a scheduled timetable). The reason to such inadmissible treatment of people with serious psychological disabilities going on for eleven years, and extremely inadequate and limited premises in which they are accommodated, followed by inadequate number of expert staff (there is no full-time doctor, psychologist or social worker, nor staff with secondary medical education; there are only two "external" neuropsychiatrists coming three times a week and working four hours), and lack of interest of responsible authorities to solve this issue through institutions.

**II.** In connection with parts of the report regarding the visit to Sarajevo semi-open Prison we asked for and received the statement on the following:

1. What was undertaken regarding removal of faults noticed by CPT Delegation members, especially in regard of use of some isolation cells.

Page 4, paragraph 5, of the Statement

**Director's Statement:**

During its visit to Sarajevo Prison CPT Delegation found out with reason that material conditions in the remand unit are very poor, so they gave recommendations in their statement to put three rooms out of use (numbers: 73B, 77 and 80).

We advise you that we have, based on this recommendation, undertaken some action, put the premises out of use as recommended by CPT and started rehabilitation in order to put them again into operation. In connection with this, we stress need to encompass the rehabilitation of conditions in the prison on a larger scale, which exerts planning and investing additional budget funds.

Besides these short statements given by the director, we enclose all attachments and materials that we received from the prisons in Federation of BiH that were included in CPT monitoring.

We inform you that immediately after the liaison officer between BiH and CPT, Mrs Minka Smajevic sent to this Ministry the copy of the statement of Renate Kicker, the Head of Delegation, at the end of the third visit to Bosnia and Herzegovina, and after we received statements from Zenica Closed Prison and Sarajevo Semiopen Prison, we had a meeting with the liaison officer between BiH and CPT Mrs Minka Smajevic, presented her and submitted the summary of statements, and subsequently copies of all attachments.

- **Ministry of Health and Social Care of Republika Srpska** -

1) Clinical Center of East Sarajevo – Psychiatric Hospital in Sokolac

- Based upon conclusions by the Republika Srpska Government and previous action, the building of the military hospital “Podromanija” Sokolac will be earmarked after rehabilitation as specialised hospital for forensic psychiatry whose founder is the Government of Republika Srpska, and it will render services for entire Bosnia and Herzegovina.

- The decision of the Psychiatric hospital in Sokolac number 01-118-1/07 of 04 April 2007 bans use of “Police cuffs” and the order of the Director of the Clinical Center number: 01-307/07 of 09 May 2007 enacts previous orders of the Psychiatric Hospital in Sokolac number 01-1945-1/03 of 07 May 2003 with instructions applied in procedure with the forensic patients, relating to forceful accommodation into psychiatric institutions, use of means for deprivation of liberty to move and adherence to instruments of physical limitations.

- On 30 April 2007, the board of doctors of the Psychiatric hospital in Sokolac assumed opinion that it is duty of all doctors to fully respect required procedure of volunteer hospitalization in accordance with the Law on protection of persons with mental disabilities (“Official Journal of Republika Srpska”, number 46/04).

2) Youth and female children Care Home Visegrad

- Given the structure of users taken care of in Care Home one nurse was employed as of 01 May 2007 as well as one kitchen servicer and in this way, among other measures, ill-treatment among users would be decreased.

- The Government of Republika Srpska approved funds for recovery of two more pavillions, which will create condition for grouping into specialised categories of accommodation for children, adults and old people.

- Upon adoption of our proposal for the programme of corectional-educational work for users, which involves employment of expert staff such as a psychologist, social worker and defectologist, we would improve the programme, and since 01 May 2007 a Contract was made with a specialist pneumoftisiologist in order to enhance health protection.



The realization of agreement with the Center for social work of Banja Luka regarding the programme of developing the model of protected living is in process, which means adequate premises and work for training a team included in this programme.

- This institution will within 30 days bring about a programme for process of work training and recreational activities of users.

- Regarding death cases of users the Director of the institution formed by his decision a three-member commission upon CPT request to investigate the death of users K and Đ, and the commission will send its report to the responsible Ministry within 30 days.

However, it can be seen from the submitted documents that K was treated from bilateral lung tuberculoses and according to the doctor's report on cause of death of 26 May 2005, the cause of death is (TBC, Pulm. bill. Insf. resperatoria asfxio, Reterdatio mentalis).

Đ died on 10 June 2006 at 8,15 pm (Dg. Ileus paralyticus Contusio et haematoma hemithoracis lat dex. Bronchopneumonia lat.dex. CMP chr subdecom. Insufficiencio cardiorespiratoria Exitus letalis).

- **Ministry of Justice of Republika Srpska** -

Based on the statement by Mrs Renate Kicker, Head of CPT Delegation we send you the Report on investigation on riots in the District prison Dobož, on 28 March 2007. By oral order by the Minister of Justice of 28 March 2007, and authorities from the Articles 84 to 88 of the Law on committing crimes and offence sanctions ("Official Journal of Republika Srpska" number 64/01 and 24/04) in the period from 28 March to 02 April 2007 a special inspection monitoring was conducted in the District Prison Dobož in connection with conflict of fighting criminal groups that burst into an open riot of convicted persons.

The special inspection monitoring was carried out by authorized officials of the Ministry of Justice:

- Milutin Tijanic,
- Milan Kosovic,
- Dusko Sain

In order to establish factual situation and make report on mentioned events authorized persons used the following method of work: interview was conducted with the Prison Manager, Manager's advisor, immediate officials working in the Correction Service and Security Service, insight was done into penal and medical documents, the visit was paid to the premises for sleeping, stay and free time of convicted persons, and premises where the incident started and which were damaged during the riot, a meeting with prisoners collective was made and discussion conducted with greater number of convicted persons, direct participants and witnesses of this event.

Around 4.10 pm, in the area designated for walk of prisoners there arose a conflict between the prisoner O and S. Prisoner H.E. took the side of O. while a bigger group of prisoners of mixed nationalities took the side of S. Since in this walking area there are objects for "body-building" (metal bars), the persons in the conflict used them for mutual quarrel. Since there was disproportion of forces and realistic assessment that there might arise severe consequences, members of Guide service succeeded to take out prisoners O and H.E. from the spot of event without use of coercion means and accommodate them in the office of the prison man on duty. The opposed group armed with metal and wooden bars, chairs and fire extinguishers broke the door leading from the Department of prisoners to exit of the prison, namely to the entrance into the administration part of building. One group of prisoners tried to break up the stairs into the Investigation department but the metal door stopped them from their intention. After a group of prisoners broke into the entrance to the administration part of the building, prisoners O and H.E. entered from the office of the duty man into the room for storing arms and other equipment. The security put a metal cashier on the door and wooden cassettes in which guards kept weapons and equipment by personal tasking. Prisoner O broke the wooden cassettes by his hand, took out two guns from them causing injuries to his hand. The prison guards could not confront such a furious mass of prisoners and get them back to the Department. Majority of prisoners asked from the guards to give them away two mentioned prisoners by threatening them and calling them nasty names. Prisoner O, confronted with real danger shot two bullets from the gun in direction over the door through which the persons chasing them could enter and seek for them. The second part of this group, tracking them, broke into almost all offices in the administration part of the building. They broke a part of office equipment and almost all glass surfaces. After gun shots of warning by the said prisoner, the prisoners got back into the living premises of the Department continuing to break and devastate equipment including two cameras for video monitoring.

After getting back to the Department, they barricaded the entrance with cassettes and beds, broke the hole for entrance onto the attic and a major part of them mounted onto the roof wherefrom they contacted outside world and journalists by yelling. Prisoner S distinguished himself as the leader of this group and he refused to talk with the Prison Manager and the Assistant Minister responsible for commitment of crime sanctions, explicitly requiring for the Minister himself to come and talk to him.

Immediately after the riot outbreak, the Center for Public Security of Doboj was notified and they surrounded the Prison with police forces and a special support unit.

In the course of this event, persuaded by the chief of the Guard service O gave up the weapons and he was smuggled out together with H.E. into the special vehicle that drove them to Dom zdravlja (Medical center) for first aid, then they were accommodated in the premises of the Center for Public Security in Doboj, and after some time they were transferred to Banja Luka prison by order of the Minister of Justice.

During these events the members of Guard service did not use force, there were no escapes, nor tries of escape, and four prisoners got light injuries as per doctor's findings.

While prisoners dwelled on the roof, there was offence of the walking area of remanded persons. Persons stayed on the prison roof until the Minister of Justice arrived and persuaded them to leave the roof so they left and got down into the Department for prisoners to talk.

The prisoners S and P as representatives of this group talked to the Minister of Justice, Assistant Minister and Prison Manager and they agreed on the following:

1. All prisoners will return to the department in order to enable normal operation of the institution.
2. There will be no repressive measures undertaken against participants of the riot.
3. The Minister will form a commission that will investigate in detail causes and consequences of this event based on what the measures will be undertaken and responsibility found out for the participants of the riot and official and convicted persons.

After these agreements had been reached, the prisoners returned to regular activities, the working regime was regained with increased security guards and increased external security and guards and police forces from CJB Dobož.

Since, as it was earlier mentioned, during this riot of devastating character, a part of equipment and furniture was damaged, all glass surfaces were broken and entrance door broken away the Prison Manager immediately undertook all necessary actions for recovery of the riot consequences. Owing to undertaken action and engagement of all employees the normal living regime and work of the Institution were reestablished within two days after the riot. The Prison Manager formed the commission tasked to find out the scope of damage incurred during the riot.

During the work of authorized persons on revealing causes and consequences of this event, a group of prisoners denied to obey and made normalization of this prison institution more difficult. Since this group of prisoners was identified as the chief organizer and riot leader, in agreement with the Minister of Justice this criminal group was split apart by transfer into other prisons in Republika Srpska. (Banja Luka Prison, Foca Prison, District Prison Bijeljina).

On the day of the riot outbreak, there were 76 prisoners serving penalties in the prison, out of which more than a half were sent here disregarding criteria set out in the Rules on criteria for sending convicted persons for serving prison sentence.

The organizers of the riot - criminal group were among those who were sent to this prison to serve sentence disregarding the Criteria. By all criteria they should have been sent to closed departments with high level of security which unfortunately does not exist in the prisons of RS.

The riot of 28 March 2007 was of devastating character, without real incentive and reason. At this occasion the material damage to equipment and furniture in Prison Dobož is around 10.000 (ten thousand) KM, by the findings of the Commission convened by the Prison Manager.

## **PROPOSED MEASURES**

The actions described in this report caused severe breaches of ZIKS and Regulations on house order for prison sentence serving.

That is why it is necessary to disciplinary treat all participants of the riot in accordance with the Regulations on disciplinary responsibility of convicted persons (Article 7, point 1 of the said Regulations; "Official Journal of RS", number 65/04").

By the described acts the convicted persons - organizers of the riot committed the crime of "riot of convicted persons" which is punishable by the Article 373 of the Criminal Law of RS (KZ RS), so, in compliance with the mentioned Article and after implementation of requested action, a report should be sent to competent Prosecutor's Office in order to launch the criminal proceeding against the convicted person S.R. and other participants of the riot.

Shots by the convicted person O from the gun he had seized after entering the weapons store and breaking into cassettes with personal weapons of the prison guards on duty, have elements of crime "against general security of people and property and it is punishable per Article 402, paragraph 1 and of crime "severe theft" punishable per the Article 232 paragraph 1, point 1 of KZ RS. It is necessary to investigate all these events and submit the report to competent Prosecutor's Office. In doing so one fact should be borne in mind, that O.E. gave away the gun peacefully persuaded by the assistant security manager.

In the end it should be stressed that during the riot, and aftermath, during consolidation activities coercion means were not used by prison guards, although all legal conditions took place to apply them.

### Building of the Department with maximum security and intensive treatment programme in Prison Foca

In last few years there are high-risk convicted persons serving terms in prisons in Republika Srpska, who participated outside the institutions and in them by doing the following: hijacking of convicted persons, organization of riots, mass fights, putting prison premise on fire, escapes, violent behavior towards other convicted persons, violent behavior and impeding of prison guards in performance of their duties and other forms of destructive acting and informal organizing.

This is supported by the data on change of the former structure of the convicted persons and rise of crimes, .i.e. increased number of them committed by the same ones who committed the most serious crimes such as: serious robberies, drug or human trafficking, terrorism, war crimes, serious murders, hijacking, blackmails and organized crime.

Such convicted persons are very often organized and linked with individuals in the institution of their service and criminal persons outside it. Upon starting their service of sentence they try to continue with such behavior. That is reason why recently there have been several mass fights registered among these persons, putting premises on fire, and fights that turned into demolishment of prison premises and riot.

Based on work and focusing on this category of convicted persons, we came to think that the manner of their organizing, inter-linking and action-taking belong to the category of extremely high-risk persons with tendency to provoke incidental situations and jeopardizing of security of other convicted persons, prison officials and property, so the prisons in RS, such as they are now, with collective system of serving terms of imprisonment, have shown inefficient and unsafe regarding security.

Taking into account human principles of work with convicted persons implemented now in prisons in Republika Srpska, based on the highest standards recommended by Council of Europe, corresponding to the highest prison standards in developed countries of Europe, we think that they are not sufficient and that they require different approach, organization and system of work with prime accent put on security.

Using experience of developed European countries in serving terms in prisons that long ago confronted this problem, and experience of countries of the former Yugoslavia, we are sure that for solution to this problem, for more efficient and better work with convicted persons in prisons in Republika Srpska, there is need to build a Department with maximum security and intensive treatment programme. It should be equipped with all technical facilities and devices and secured by prison guards equipped with the latest equipment.

The problem of lack of a Department with maximum security and intensive treatment programme for serving sentences in Republika Srpska had been recognized long ago as something which is "a must", something indispensable for successful implementation of appropriate treatment of high-risk categories of convicted persons.

Prisons Foca and Banja Luka as closed prisons, in which it was foreseen by the Law (Article 22, paragraph 5) to form such a department, cannot successfully carry out treatment of this category of convicted persons that represent danger to other convicted persons, property and prison staff.

That is why the Minister of Justice made a decision to build the Department with maximum security and intensive treatment programme in Prison Foca, in a part of the existing buildings of the furniture factory that would be reconstructed, enlarged and separated as independent construction entity per all standards for this purpose, putting accent on security issues.

The assessed financial resources for its construction are around 500.000 KM, and the Ministry allocated and paid 45.000 KM to the Prison so far. The term for its construction is the end of August this year. This Department would be built completely physically separated from buildings with other convicted persons.

That part of the facility of 523 square meters of useful surface has been cleaned and prepared for interior construction of separate premises, of 11.5 m<sup>2</sup>, each with sanitary facilities and toilet, and with the walking area of 640 m<sup>2</sup>. The preliminary design has been made for the building and it got approval from the Ministry. The Department is envisaged to receive 30 high-risk convicted persons, with possibility of build-up for the same number of premises.

By formation of such Department, dangerous and risky groups of convicted persons from all prisons in Republika Srpska would be separated from other prison population, which would decrease possibility of riot, escape cases and massive non-discipline in them, drug peddling and other illegal things in them, as well as greater influence on other prisoners.

Construction of such department would create environment for more normal and comprehensive work of expert officials with categories of convicted persons in collective system of serving sentences.

- Information on measures undertaken not to put minor persons serving terms together with adult convicted persons

The Article 14, paragraph 4 of the Law on exercise of criminal and offence sanctions of Republika Srpska ("Official Journal RS", number 64/01 and 24/04) prescribes that "minor persons serve sentences, as matter of rule, separated from adult persons of age", and the Article 326 paragraph 1, point 1 of the same Law regulates that this sanction will be carried out in Prison Foca until formation and start of work of the prison for serving sentences by minors.

At this moment in this prison there is not a separate Department for minors serving sentences, i.e. minors serve their terms together with adult convicted persons, which was stated by Renate Kicker in her statement.

Now in Prison Foca four male persons serve minor imprisonment and they are accommodated in the premises of Admission-Release Department, but in their free time and during work they are exposed to various negative influence by adult convicted persons.

Prison accommodation in Republika Srpska is built in traditional way with dormitories (pavillion system of building and barracks accommodation). Such system of building creates big problem at adaptation to European prison provisions that require that "young prisoners should be enabled with conditions that would protect them as much as possible from damaging influences and ensure for them all required for their age". The Article 28 of CPT rules says that "all minors deprived of their liberty must be kept in correctional homes especially built for persons of that life age, offering regime shaped according to their needs".

Current accommodation capacities for serving terms in prisons in Republika Srpska are filled at 95%, meaning that currently, the Ministry of Justice is not capable to provide a special institution, not even a special department for accommodation of persons sentenced to minor imprisonment in accordance with the said international standards.

In their inspection reports, inspectors of the Ministry of Justice, while being in control to Prison Foca including serving of minor terms, stated that the premises for minor sentence serving are inadequate, proposing to find and invest funds into development of a special Department within which it would be possible to separate this convicted population from other prisoners. The present problem is that in Prison Foca there is not any space for building a special department for accommodation of this category of convicted persons, so the solutions should be found within other prisons in Republika Srpska.

Furthermore, it should be said that two thirds of prisons in Republika Srpska, including Prison Foca, work in the same buildings as before the war, and they are in quite a modest state, many were devastated during the war, so they had to be renewed, first the building for prisoners conviction standard (improvement of conditions of accommodation of persons deprived of their liberty) and current maintenance of buildings.

Construction of new and adaptation of existing premises in prisons in Republika Srpska is necessary in order to create conditions for work and accommodation of persons deprived of their liberty during their stay in the institution, especially for persons serving minor sentence. That construction is limited by modest financial means provided from the budget of Republika Srpska, and partially from prisons' own resources.

That is why on 26 April 2007 the Ministry of Justice sent information to the Government of Republika Srpska on current issues of operation of prisons in Republika Srpska, pointing to conditions in which sentences are served and remand conditions, with special attention focused on solving the legal accommodation of persons convicted to minor imprisonment and including remarks forwarded to us to that sense by CPT Delegation, which is sufficient to realize how serious the situation with prisons is. In order to improve conditions of accommodation of persons deprived of their liberty and raise serving of sentence in prison at higher level, various measures were proposed for reconstruction and building of building for serving imprisonment including building of the department for serving minor terms at newly obtained locations - former military barracks - in District Court in Dobož (Savarlije) or District Court in Bijeljina (Patkovaca).

**- Ministry of Labor and Social Policy of Federation BiH -**

Considering comments and recommendations of CTP regarding care for users in institutions of social care in Federation BiH, namely Care Home for persons with special needs "Drin" Fojnica, we give the following statement:

- Positive comment of CPT Commission that there is no physical torture of users by personnel and that there is caring relation between users and personnel, is very important for operation of this and other institutions of social care for accommodation of persons with special needs in Federation BiH. In this way full satisfaction was rendered to employees of these institutions who kept them working during the war and post-war period through their generous efforts.
- At the same time we appreciate recommendation concerning need that all beneficiaries accommodated in institutions of social care should enjoy individualized therapeutic approach in life and educational institutions, especially designed for their age, which especially refers to children.

In connection with this the Federation Ministry of Labor and Social Policy plans to improve all forms of institutional accommodation and create prerequisites for enhancement of non-institutional form of accommodation, all with aim to reach regional and international standards and required reforms in institutional accommodation.

Within scheduled reform programmes in the area of social sector, this Ministry has preference in future for development of alternative accommodation and other worldwide adopted modern methods of protection for socially endangered categories, in this case persons with special needs. This primarily concerns need to render material, technical and advisory support to families and providing support to local community so that accommodation of this vulnerable category into daily, semi-daily stays, protective workshops, rehabilitation centers, upbringing centers, educational and other alternative forms could provide for respect of fundamental human rights and children's rights guaranteed by the UN Convention on Rights of Child.

These models are directed towards need of beneficiaries and are based upon accommodation in family and local community, which ameliorates and contributes to better life for users and fastens the process of reform of social care in general and contributes to deinstitutionalization of institutions for accommodation of persons with special needs.

Permanent wish of this Ministry is that policies and reforms implemented currently move towards gradual institutional care and prefer other, accepted alternative models of accommodation in local community and family. In this way integration into local community of persons with special needs would be easier and obsolete institutional system of accommodation in big asylum center would be overcome.

- We also think that the comment regarding lack of departmental and other therapeutic personnel and existence of need for continuous education of all employed has grounds.

This Ministry has launched action to this matter regarding construction of norms and standards for work of institutions of social care in accordance with international standards.

- As for the comments of the Commission who found out that it was unacceptable that in the institution "Drin" chains and locks are used for two beneficiaries to fix them, and that it is necessary to find alternative solution. This Ministry required from the institution "Drin" to undertake urgent measures and find out alternative solution for monitoring of users.
- The Delegation stated their concern on absence of participation of legal guardians of the users, and absence of independent audit.

In accordance with the Law on foundations of social care, protection of civil victim of war and protection of family with children of FBiH, the Center for social care as guardian body is obliged to follow up treatment of the person accommodated in the institution for sake of care, protection, treatment of physical or mental health of such person.

In connection with this, this Ministry will undertake activities to make obligations of the guardian body fully carried out and it will organize independent audit of implementation of such activities.

- As for founded recommendations regarding need for legal framework that would regulate the issue of institutions of social care for accommodation of persons with special needs, we inform you that activities are in process of enforcing the law on overtaking of founder's rights over institutions of social care in Federation BiH. It was agreed to send again the Draft law on overtaking of founder's rights over institutions of social care in Federation BiH for the parliamentary procedure and that BiH Parliament takes over the right and liabilities of the founder over these institutions of social care.
- This Ministry briefed institutions of social care on recommendations of the Commission to start internal investigation as independent external investigation upon sudden death of persons staying in institutions of social care, as well as need to implement all measures anticipated by law in such situations.



- **Ministry of Justice of Bosnia and Herzegovina** -

European Court for Human Rights in Strasbourg made Decision number App-11123/04 in the case of Fikret Hadzic against Bosnia and Herzegovina, by which Bosnia and Herzegovina, through concluding friendly agreement, is obliged to transfer Fikret Hadzic and other prisoners-patients who were convicted to compulsory psychiatric treatment to appropriate facility in Bosnia and Herzegovina, not later than 30 Dec 2005.

In order to implement the said decision by the European Court for Human Rights, the Ministry of Justice of BiH has so far undertaken the following activities:

1. In accordance with conclusions of the Council of Ministers adopted at 106th session of the Council of Ministers held on 02 Feb 2006, the Ministry of Justice of BiH formed inter-sector group consisted of representatives of: state and entity ministries of justice, representatives of Judicial commission of the District of Brcko, Ministry of Human Rights and Refugees, Ministry of Finance and Treasury and entities bodies responsible for social care. The group made a report and submitted a proposal of conclusions to the Council of Ministers, which were in majority accepted, and as a result a Memorandum of Understanding and Legal Assistance and Official Cooperation in the field of exercise of security measures of compulsory psychiatric treatment pronounced at the criminal proceeding at the courts on the territory of Bosnia and Herzegovina, was signed between the Ministry of Justice of BiH, Federation Ministry of Justice, Ministry of Justice of Republika Srpska and the Judicial Commission of the District of Brcko ("Official Journal of BiH", number: 44/06).

The point 4 of the Memorandum provides that all measures of security of compulsory psychiatric treatment pronounced by any court in BiH will be served in the Psychiatric hospital "Podromanija" in Sokolac.

2. The Council of Ministers made decision to adopt the said Memorandum on its 122nd session held on 05 July 2006.

This decision, besides other issues, such as appointment of Monitoring Board and provision of funds for recovery of the psychiatric hospital "Podromanija", Sokolac, and costs of exercise of security measure, regulates also in the Article 5 of the Decision that the Ministry of Justice of BiH and Ministry of Finance and Treasury of BiH are responsible to implement the Decision.

3. Following this the Council of Ministers also made the following decisions based upon the Memorandum on Understanding, at its 125th session held on 27 July 2006:

- Decision on establishing a unit for implementation of the project of recovery of the Psychiatric hospital "Podromanija" Sokolac, which sets out the tasks of the unit, its content, financing, unit managing, reporting and cease of work;
- Decision to appoint Mr Slobodan Ecimovic the coordinator of the realization of the project of recovery of the Psychiatric hospital "Podromanija" Sokolac;

- Decision to provide initial funds for start of the realization of the project of recovery of the Psychiatric hospital "Podromanija" Sokolac;
- Decision to appoint the Monitoring Board for control of invested funds for recovery of the Psychiatric hospital "Podromanija" Sokolac;

4. On 08 June 2006 the Contract was signed between the Ministry of Justice of BiH, Federation Ministry of Justice, Ministry of Justice of Republika Srpska, Judicial Commission of the District of Brcko BiH, on compensation of costs of compulsory psychiatric treatment pronounced in criminal proceeding by the Court of BiH, courts of Federation of BiH, courts in Republika Srpska and courts in the District of Brcko BiH.

5. We obtained information from the Clinical center in Sarajevo on costs of a patient's day in the Psychiatric hospital of the Clinical center in Sarajevo, in order to make the realization of the above mentioned Contract on costs more efficient. Given the price of daily costs of exercise of security measure, accounted in the amount of 34,00 KM as provided by the Article 4 of the Contract, is not acceptable for the management of the Psychiatric hospital in Sokolac, which can be seen from the letter number: 01-4022-1/06 of 26 June 2006, sent to Federation Ministry of Labor and Social Policy in Sarajevo, it is necessary to establish new realistic price based on supplied information and modify the Article 4 of the Contract.

6. The Psychiatric hospital in Sokolac sent us information on accommodation capacities by the notice number: 013544-1/06 of 14 Sep 2006, as well as on conditions, its staffing and technical capacities and the number of patients in the Forensic psychiatric department of the Psychiatric hospital in Sokolac. This information clearly shows that this institution is not capable to receive persons now being in the Psychiatric department of Prison Zenica for accommodation.

7. By the Decision made by the Minister of Justice of BiH, the Commission was named to do handover of the building of the former hospital of the Chief Headquarters of the Army of RS between VMC Sokolac and the Ministry of Justice BiH, and a request to that matter was sent to the Ministry of Defense of BiH, asking them to issue order on moving out and fix handover deadline.

We have been informed by the coordinator of the Project of recovery of the building of the Psychiatric hospital "Podromanija" Sokolac, that the project documentation was completed and that the activities on announcing the tender for procurement of the work contractor are in progress.

8. Having in mind the obligation around the matter, the Ministry of Justice of BiH convened a meeting on 16 April 2007 in the premises of the Municipality of Sokolac and all relevant representatives of entities ministries were summoned with aim to consider the title-legal relations connected with the future project and the building that is located on the territory of the said municipality and solution for future title holder for the named building, which is crucial for the project of recovery of the Psychiatric hospital whether it will be managed at the level of BiH or at the entity level.

9. The Ministry of Justice of BiH sent information in connection with the matter on 23 April 2007 to all participants of the meeting and return information was required from the Ministry of Justice of RS, Ministry of Health of RS, the Mayor of Sokolac municipality, to advise this Ministry via Government of Republika Srpska whether they wanted to transfer title of the building onto BiH in order to enable management of the said project at BiH level or they intended to keep the said property at the entity level, by which, in given circumstances, the Ministry of Health and Ministry of Justice of RS could be future holders of the project of building of the psychiatric hospital;
10. On 26 April 2007 the official report of the Delegation of European Committee was handed out to participants of the meeting held in the Ministry of Human Rights and Refugees of BiH;
11. In consideration of the Statement by the Head of Delegation of European Committee, the Ministry of Justice of BiH sent a letter on 09 May 2007 to the Federation Ministry of Justice and Ministry of Justice of RS, pointing out their obligations to submit report regarding recorded failures or comments mentioned in the Statement and asked them to send the report not only to Delegation of European Committee but to the Ministry of Justice of BiH as well, until 25 May 2007, since the deadline for submission of the report is 31 May 2007;
12. Furthermore, on 09 May 2007 the Ministry of Justice of BiH sent the Statement of the Head of Delegation of European Committee, together with a cover letter, to the Ministry of Security of BiH, stressing especially obligations of the entity police structures in supplying responses to noted comments or failures or inappropriate behavior of police bodies, asking from the Ministry of Security of BiH to coordinate the above mentioned obligations;
13. On 09 May 2007 the Ministry of Justice of BiH submitted the report on its activities concerning the project of possible building of the psychiatric hospital and forwarded it to the Ministry of Human Rights and Refugees to compile all reports and send it to the Delegation of European Committee;
14. Until the day of making of this information the Ministry of Justice of BiH has not received the official response of responsible ministries of Republika Srpska regarding the solution for title-legal issues, namely issue concerning title and title holder for the building located on the territory of Sokolac municipality, so the Ministry of Justice of BiH sent an urgent notice asking for submission of the required response until 30 May 2007 the latest.

The above given information shows that the Ministry of Justice of BiH fulfilled all its obligations arising from the Statement by the Head of Delegation of European Committee and that the only pending issue is obligation to subsequently inform European Committee on accepted view, decision of the Government of Republika Srpska concerning the title-legal relations regarding the named building.