

Response

of the Government of Bosnia and Herzegovina to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Bosnia and Herzegovina

from 5 to 11 December 2012

The Government of Bosnia and Herzegovina has requested the publication of this response. The report of the CPT on its December 2012 visit to Bosnia and Herzegovina is set out in document CPT/Inf (2013) 25.

Strasbourg, 12 September 2013

**Report of Bosnia and Herzegovina
on the visit of the European Committee for the Prevention of Torture and Inhuman or
Degrading Treatment or Punishment - ad-hoc monitoring mission to Bosnia and Herzegovina,
5 – 11 December 2012**

In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter: the Convention), a delegation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter: CPT) carried out a visit to places / institutions in Bosnia and Herzegovina where people are involuntarily deprived of their liberty in the period from 5 to 11 December 2012 to ascertain how the persons deprived of their liberty were treated and to give recommendations of improvements for the protection from torture and inhuman or degrading treatment or punishment, if required.

The goal of the visit was to assess the progress that had been made in connection with the implementation of recommendations contained in the Report on the CPT's periodic visit to Bosnia and Herzegovina, which had been carried out in 2011, especially with regard to persons held by the police and judicial authorities in Bosnia and Herzegovina.

The report on the April 2011 periodic visit to Bosnia and Herzegovina referred to a considerable number of credible allegations of serious physical ill-treatment by the police and other law enforcement officials. The report made particular reference to the fact that the infliction of ill-treatment for the purposes of trying to extort a confession was a frequent practice by crime inspectors at Banja Luka Central Police Station. Further, it raised concerns over the effectiveness of the safeguards in place to prevent ill-treatment.

However, the response by the authorities of Bosnia and Herzegovina to that visit report failed to address adequately the concerns identified by the Committee, notably as regards the methods used by crime inspectors at Banja Luka Central Police Station.

In the light of the above, the CPT decided to carry out an ad hoc visit to Bosnia and Herzegovina and more particularly the Republika Srpska, to examine the steps taken by the authorities to implement the recommendations made by the Committee after the April 2011 periodic visit.

The delegation focused on the treatment of persons deprived of their liberty by law enforcement agencies and the application in practice of the formal provisions regarding safeguards against ill-treatment. Attention was also paid to the situation of remand prisoners.

The delegation visited the following places of detention:

Police establishments

- Banja Luka Central Police Station
- Bijeljina Police Station
- Doboj Police Station
- Gradiška Police Station
- Istočno Sarajevo Police Station
- Prnjavor Police Station

Prosecutor's Offices

- Holding cells at Banja Luka District Prosecutor's Office
- Holding cells at Banja Luka Special Prosecutor's Office for Organised Crime
- Holding cells at Doboj District Prosecutor's Office

Courts

- Holding cells at Banja Luka District Court
- Holding cells at Doboj District Court
- Holding cells at Supreme Court of Republika Srpska, Banja Luka

Prison establishments

- Banja Luka Prison (remand section)
- Bijeljina Prison
- Doboj Prison (remand section)
- Istočno Sarajevo Prison (remand section).

The places / institutions in Bosnia and Herzegovina where people are involuntarily deprived of their liberty were visited by the following members of the CPT:

- **Mykola GNATOVSKYY, Head of delegation**
- **Dan DERMENGIU**
- **Branka ZOBEC HRASTAR.**

They were supported by Hugh CHETWYND (Head of Division), and Petr HNÁTÍK of the CPT's Secretariat.

On 27 March 2013, in its capacity as coordinator of activities, the Ministry of Human Rights and Refugees received the Report to the Government of Bosnia and Herzegovina on the Visit to Bosnia and Herzegovina Carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment from 5 to 11 December 2012 and sent it to the Bosnia and Herzegovina Council of Ministers for consideration and adoption of recommendation.

The 165th meeting of the Council of Ministers of Bosnia and Herzegovina held on 21 May 2013 issued the following conclusions:

1. Given authorities of Bosnia and Herzegovina are obliged to provide a response to the recommendations, comments and requests for information formulated by the CPT, authorities of Republika Srpska are invited to take all necessary actions to remedy the shortcomings and failures observed in the CPT's report and step up their efforts to improve the state of affairs in light of recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.
2. Authorities of Republika Srpska are invited to urgently provide responses giving a full account of action taken so that a report of the Government of Bosnia and Herzegovina can be sent to the CPT's Secretariat within 3 months of receipt of the CPT's report by the Ministry of Human Rights and Refuges, that is, on 27 June 2013.

The Report to the Government of Bosnia and Herzegovina on the Visit to Bosnia and Herzegovina Carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment from 5 to 11 December 2012 was sent to the following:

- the Republika Srpska Ministry of the Interior and the Republika Srpska Police Administration, the Republika Srpska Ministry of Justice, the High Judicial and Prosecutorial Council of BiH, the Supreme Court of RS, the District Court of Banja Luka, the District Court of Doboje, the Republika Srpska Prosecutor's Office, the Specialised Prosecutor's Office for Organized Crime, the District Prosecutor's Office of Banja Luka and the District Prosecutor's Office of Doboje.

The cover letter with the CPT's report included directions to the authorities, to which observations, recommendations, comments and requests for information formulated by the CPT apply, to provide a response giving a full account of actions taken to implement them. It was underlined that the CPT trusted that it would also be possible for the authorities of Bosnia and Herzegovina to provide, in that response, reactions and replies to the comments and requests for information.

The replies, comments and suggestions about the recommendations and queries of the CPT's report were sent to the Ministry of Human Rights and Refuges by the following:

- **the High Judicial and Prosecutorial Council of BiH**
- **the Supreme Court of RS**
- **the Republika Srpska Prosecutor's Office**
- **the Republika Srpska Ministry of the Interior and**
- **the Republika Srpska Ministry of Justice.**

The High Judicial and Prosecutorial Council of BiH sent letter no: 06-50-1778-2/2013 dated 25 April 2013 to courts and prosecutor's offices in Republika Srpska the CPT's report deals with.

In the feedback given to the MHRR, the High Judicial and Prosecutorial Council of BiH notes that the HJPC informed courts and prosecutor's offices in Bosnia and Herzegovina about the utmost importance of the courts and prosecutor's offices acting in a timely fashion, fully complying with their competences and in accordance with recommendations, comments and requests for information formulated by the CPT in the visit report to the Government of Bosnia and Herzegovina and their providing relevant information to the Ministry of Human Rights and Refuges of BiH for compilation of a report.

The President of the Supreme Court of the Republika Srpska informed the Ministry of Human Rights and Refugees that he had sent letter no: 118-0-SuI-13-000 170 dated 29 April 2013 to all district and basic courts in the Republika Srpska, reminding the judges that they should act in line with principles set forth in paragraphs 20 and 21 of the CPT's report.

This reminder was sent by the President of the Supreme Court of the Republika Srpska to all presidents of criminal chamber and judges sitting on them and preliminary proceedings judges sitting on courts without criminal chambers.

The letter of the President of the Supreme Court of the Republika Srpska states *inter alia* the following:

„With regard to paragraph 20 of the Report, please note that the CPT reiterates its recommendation that the police officers charged with escorting the detained person for a medical examination are not the same ones against whom the allegations of ill-treatment are brought. In such cases, the task of escorting detained persons to the medical institution concerned should be entrusted to judicial police officers.

With regard to paragraph 21 of the Report, I remind all preliminary proceedings judges who issue arrest warrants/order detention under Article (200)(1)(1) of the Criminal Procedure Code of the Republika Srpska („RS Official Gazette“ 53/2012, hereinafter: CPC) should act in line with this paragraph, which means that prosecutors and judges should take appropriate actions when there are indications that ill-treatment by the police may have occurred. In this regard, whenever criminal suspects brought before prosecutorial or judicial authorities allege ill-treatment, those allegations should be recorded in writing, a forensic medical examination (including, if appropriate, by a forensic psychiatrist) should be immediately ordered and the necessary steps taken to ensure that the allegations are properly investigated. Such an approach should be followed whether the person concerned bears visible external injuries or not. Further, even in the absence of an express allegation of ill-treatment, the prosecutor/judge should adopt a proactive approach; for example, whenever there are other grounds to believe that a person brought before him or her could have been a victim of ill-treatment, a forensic medical examination should be requested.“

Further, the letter of the President of the Supreme Court of the Republika Srpska addressed to the presidents of district and basic courts in the Republika Srpska reads as follows:

„This letter is of instructing nature and I take the opportunity to remind the judges that they should act in accordance with the above-mentioned principles.

On this occasion, I take the opportunity to inform you that earlier activities of the Judicial Police of the Republika Srpska, as prescribed, also included record keeping of detainees in facilities of the judicial police departments in the district courts (now they are called district centres of Judicial Police of RS). The Instructions for keeping records of the Judicial Police of RS No. Su/Sp-58/13 dated 22 January 2013 have facilitated the record keeping that is now updated, expanded and more detailed. Form 7 is used for these purposes and it contains 10 columns from 1 to 10: 1 - serial number, 2 - date and time of detention, 3 - name and surname of the detainee, 4 - name of the authority ordering the detention (number and date of the document), 5 - reason for detention, 6 - name and surname of the judicial police officers who detained the person (number and date of the warrant), 7 - name of the authority and name and surname of the authorized official in the authority

that handed over the person to the judicial police officers, 8 - name of the authority that issued a decision on further actions respecting the detained person (number and date of the document), 9 - data on further actions respecting the person: the person was released (document number), the person was taken to another facility (please specify which authority or facility), the person was handed over (name of authority), other situations, 10 - remarks.

The district or basic courts or their presidents do not need to keep such records, because the records can be given to them for inspection. The District Courts of Banjaluka and Istočno Sarajevo, the Supreme Court of the Republika Srpska and the Basic Courts in Gradiška, Novi Grad, Prijedor, Modriča, Zvornik, Srebrenica, Foča and Trebinje have rooms for detention/cells.

Chief Police Officers and shift leaders in the District Centres of Judicial Police of RS in Banjaluka and Istočno Sarajevo and the Inspectorate of Judicial Police in the Supreme Court of the Republika Srpska are responsible for ensuring access to these records. Squad commanders/group leaders in the Basic Courts of Gradiška, Novi Grad, Prijedor, Modriča, Zvornik, Srebrenica, Foča and Trebinje are responsible for ensuring access to these records.

These records are available and can be inspected by interested agencies and persons participating in criminal proceedings.

We are informing you that the Judicial Police of RS keep records of persons detained only in official premises/ cells of the District Courts of Banja Luka and Istočno Sarajevo and the above-mentioned Basic Courts. Detention of suspects up to 24 hours where prosecutors are to be involved is not within competences of the Judicial Police of RS and records of these persons are not kept by the Judicial Police of RS. The Judicial Police take over a suspect only after the preliminary hearing judge issues a decision on detention or issue an order that the person is to be kept and taken to remand facility. Until then, the prosecutor is required to ensure bringing the person before preliminary proceedings judge (Article 204, paragraph 5 of the CPC).

This letter and reminder is a response and comments, as required in recommendations under paragraphs 20 and 21 of the CPT's Report, will be sent to the Ministry of Human Rights and Refugees of Bosnia and Herzegovina and will be forwarded to the High Judicial and Prosecutorial Council of Bosnia and Herzegovina, the Chief RS Prosecutor and the Minister of Justice of the Republika Srpska for their information.“

The Chief Republika Srpska Prosecutor sent to MHRR an Information Paper on legislative measures in the implementation of recommendations under CPT's Report to the authorities of Bosnia and Herzegovina. The Chief Prosecutor acted in accordance with the recommendations set forth in paragraph 21 of CPT's Report.

The Republika Srpska Prosecutor's Office sent the following:

With regard to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on Bosnia and Herzegovina dated 22 March 2013, complying with duties and obligations provided for in the Law on the Prosecutor's Office of the Republika Srpska and the Criminal Procedure Code of RS, the RS Prosecutor will **immediately** take measures and actions for the implementation of the CPT recommendations in order to meet obligations under the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and they are specifically:

I - Ensuring legality of prosecution, pursuant to the authority specified in Article 9 in conjunction with Article 5 and Article 23 of the Law on Prosecutor's Office, the Chief Prosecutor of the Republika Srpska will immediately issue a **general mandatory instruction** to all district courts in RS, which determines the organization and course of action by prosecutors upon receiving charges of abuse of office by authorized and other officers committed against participants in the criminal proceedings, such as criminal offense of violation of human dignity by abuse of official position or authority under Article 359 of RS CC, the crime of extortion of statements under Article 358 of RS CC, the crime of torture under Article 168 of RS CC etc. in order to conduct **independent investigations** of such crimes and their perpetrators.

The general mandatory instruction determines in line with the Law the following:

- chief prosecutors in all district offices that have over 10 prosecutors posts provided for in their by-laws will ensure clarity and transparency of recording and monitoring of these crimes by *inter alia* assigning all criminal charges involving the above-mentioned offenses relating to abuse of persons perpetrated by authorized and other officers to one dedicated prosecutor;
- all prosecutors have an obligation in accordance with and in the manner provided for in the Criminal Procedure Code, during investigations and prosecution of criminal offenses, to immediately take in written or oral charges for ill-treatment of persons perpetrated by authorized and other officers of the police, irrespective of the fact whether medical and other physical evidence related to the reported act is provided or not and the criminal charges taken in are immediately recorded and assigned to a dedicated prosecutor for action;
- upon receiving criminal charges, depending on the circumstances, in order to ensure adequate evidence, the prosecutor orders and enables an impartial forensic examination of the complainant without the presence of a police officer;
- in all reported cases of criminal acts of ill-treatment by official persons, in order to ensure fairness of the proceedings, the prosecutor conduct directly all investigative actions in accordance with the Criminal Procedure Code by directly gathering the necessary information and information about the reported offense and the perpetrator from the state and public authorities and organization and directly carries out investigative actions to gather evidence in accordance with CPC;
- pursuant to Article 43/II in conjunction with Article 24 of RS CPC, immediately after finding out about determining that there is probable cause that a criminal offense of abuse of persons by official persons, irrespective of the fact whether the perpetrator is known or not, the prosecutor takes actions to investigate the offense and the perpetrator and issues a procedural decision on the official opening of the investigation of criminal offenses - an order for investigation with legal elements under Article 224/II of CPC and informs the Internal Control Unit (Internal Affairs Inspectorate) of the RS Ministry of the Interior and RS Police Director about the opening of an official investigation;
- of all reported cases of ill-treatment by official persons on duty in police the prosecutor exchanges information with the Internal Control Unit of the RS Ministry of the Interior and other offices of the RS Ministry of the Interior in order to successfully complete the investigation of criminal offenses or disciplinary proceedings or other type of accountability of official persons in police for violation of the duty;
- the prosecutor entrusts the appropriate Department of Forensic Medicine of RS with giving medical opinion in the investigation of the offenses alleged in an independent and transparent manner;
- all the cases of investigation of these crimes still pending after the deadlines specified in the law will be immediately notified to the RS Chief Prosecutor.

II – At the same time, the RS Chief Prosecutor will immediately request the information on the outcome of investigations conducted by each individual prosecutors in reported cases and the cases referred to in CPT report dated 22 March 2013, which cases refer to instances of illegal conduct of detective/crime inspectors of Gradiska Police Station, Center Banja Luka Police Station, or Public Security Center of Banja Luka, Bijeljina Police Station and others. The main duty of district prosecutors is to immediately take measures and actions within their powers in accordance with the law in order to prosecute these cases and make lawful prosecutorial decisions within statutory deadlines, if these decisions have not yet been made, and that the results from the activities undertaken are immediately communicated to HJPC and the Ministry of Human Rights and Refugees.

With regard to queries, comments and requests for information of the CPT, in the present report below, we are giving full reports put together by the Ministry of the Interior and the Ministry of Justice of the Republika Srpska

Ministry of the Interior of the Republika Srpska

The Ministry of the Interior has carefully read the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter: CPT) on the visit to BiH in the period from 5 to 11 December 2012 and has come up with the following conclusions.

The Bureau for Citizens' Complaints and Grievances has submitted a report reviewing investigations carried out in internal proceedings upon complaints of citizens about treatment during arrest by police officers of Banja Luka Central Police Station. The Bureau reviewed investigations in the cases reported to the Bureau and Internal Affairs Inspectorate by citizens and processed. On this occasion the Bureau for Citizens' Complaints and Grievances has found that eight citizens' complaints relating to abuse of office of police officers - rough treatment, the use of restraining devices, the use of illegal or excessive force have been filed. In five cases the Internal Affairs Inspectorate has not been able to confirm allegations of complainants of misconduct and the use of force against detainees by police officers.

According to a complaint, following the investigation, the Internal Affairs Inspectorate found that there was an abuse of office, especially the illegal and excessive use of force and concealment of facts in relation to the use of force against a person deprived of liberty by police officers of Banja Luka Central Police Station (detective inspectors), over which an initiative for disciplinary proceedings against the police officer was filed and the Bureau for Citizens' Complaints and Grievances endorsed it. At the time of reporting the disciplinary proceedings against the officer was still pending.

In addition, two complaints were filed against three detective inspectors for illegal and unprofessional treatment of persons deprived of liberty and the Inspectorate found that the applicants had also filed criminal charges against the detective inspectors and concluded that the internal proceedings should not be carried out until the completion of checks/investigation by the prosecutor, which the Bureau disagreed on.

The CPT requires information on the outcome of these cases in a new report, so we are giving the following information:

In the first case, the disciplinary proceedings against two police officers – detective inspectors of Banja Luka Central Police Station were completed in the meanwhile. The Disciplinary Committee of the Banja Luka PSC found the police officers not guilty of any charges, as the proceedings did not prove that they had committed a breach of duty which they were charged with. The Disciplinary Counsel filed an appeal against this decision, which was rejected by the Police Board as unfounded and the original decision was sustained.

Thus, the applicant's allegations of ill-treatment by illegal and excessive use of force (punching and kicking, hitting with computer cables etc.) were not confirmed in the disciplinary proceedings against the detective inspectors /it was not proven that the detective inspectors acted in the manner described in the complaint and thereby committed a breach of duty which they were charged with.

With regard to two other complaints against three detective inspectors of Banja Luka Central Police Station against whom the applicants also filed criminal charges and where an internal investigation was not carried out, in the case in which the applicant claimed that during arrest the detective inspectors of Banja Luka Central Police Station hit her on the head, uttered bad words and insults, that she was handcuffed all day long, that she was not allowed to go to the toilet or drink water, that she was forced to sign a confession and sustained other types of torture and ill-treatment at the premises of the Banja Luka Central Police Station, the District Prosecutor's Office of Banja Luka issued an order not to carry out investigation of the detective inspectors because there was no reasonable doubt that they had committed the offense of violation of human dignity by abusing office or authority. In the second case, which resulted from the first incident, the District Prosecutor's Office has not yet made a decision on the applicant's criminal charges.

Thus, from the above it is to be concluded that in some cases, of which the Bureau was aware and which were the subject of an internal investigation by the Inspectorate and evaluation by the Bureau, the internal proceedings did not result in enough facts and evidence to be able to sustain the allegations of abuse of official position as described above. In specific cases where the Bureau found misconduct as described above, the allegations of abuse of office and illegal use of force by the detective inspectors were not proved in further statutory procedures carried out by the competent authorities (the disciplinary committee and the competent prosecutor's office), so the use of method described in the report cannot be confirmed.

- The Professional Standards Unit received letter no. T17 KTN 0 0001448 11 dated 15 December 2012 from the District Prosecutor's Office of Istocno Sarajevo for action. This request for the collection of information, which was sent to the Criminal Police Administration and the Professional Standards Unit, stated that a case against unidentified police officers over suspicion of their having committed a criminal offense of violation of human dignity by abuse of power or authority under Article 359 of RS CC was pending before the District Prosecutor's Office of Istocno Sarajevo and, in order to document and detect the police officers of Istocno Sarajevo suspected of having committed the crime, ordered that witnesses/victims, L.B. and N.M., persons who were diagnosed with injuries, should be heard, that the documents of Istocno Sarajevo Police Station that had been made regarding the detention of these persons should be inspected and that other measures and actions to collect information and evidence about circumstances of the incident should be taken. Copies of the documents already collected were enclosed with the request for collection of information submitted and the following can be inferred from them:

- On 25 March 2011, police officers of Istocno Sarajevo Police Station deprived N.M. and K. A. of their liberty, because of reasonable doubt that they committed the criminal offense of larceny in Istocno Sarajevo the same day,
- These persons were brought to Istocno Sarajevo Police Station and were subjected to criminal investigation,
- L.B. was arrested by police officers of Novo Sarajevo on 25 March 2011 and was handed over to police officers of Istocno Sarajevo Police Station for criminal investigation,
- After the criminal investigation, N.M. and L.B. were handed over to the District Prosecutor's Office of Istocno Sarajevo and it was then that they complained of torture and sustained injuries, which were stated in the medical report, to prosecutor Dž.P. to whom the case was assigned,
- On 15 July 2011, the District Prosecutor's Office of Istocno Sarajevo sent a request for the collection of information about the incident to Istocno Sarajevo Police Station and requested that Istocno Sarajevo Police Station should give observations on the incident, gather relevant information and take all necessary measures and actions in order to verify the allegations in the request,
- On 27 September 2011, the commander of the Istocno Sarajevo Police Station provided collected documentation (report on the measures and actions taken that was made by the deputy commander for crimes, records of gathering information from police officers and others) to the District Prosecutor's Office of Istocno Sarajevo, and the report states that there was no unlawful treatment of persons deprived of liberty and therefore there were no grounds for suspicion that the crime described in the request had been committed.

With regard to the request of the District Prosecutor's Office of Istocno Sarajevo received by the Professional Standards Unit, on 17 January 2012, through UKP, the Internal Affairs Inspectorate complied with the request of the District Prosecutor's Office of Istocno Sarajevo and on this occasion, by order of prosecutor Dž.P., necessary measures and actions were taken (N.M., police officers of the Istocno Sarajevo Police Station, witnesses and other persons were interrogated; by order of the Basic Court of Sokolac, medical records of the "Kula" Prison and collected documentation of the Istocno Sarajevo Police Station were provided to the District Prosecutor's Office of Istocno Sarajevo) and all the collected documents were given to the assigned prosecutor, as agreed with and ordered by him, for final decision-making and possible ordering for additional information collection.

On 6 March 2013, in the District Prosecutor's Office of Istocno Sarajevo, in the presence of the prosecutor and Inspector of Internal Affairs Unit, the Chief Disciplinary Counsel of the RS Ministry of the Interior, L.B. identified the police officers of the Istocno Sarajevo Police Station in photographs offered.

N.M. did not appear before the prosecutor as he was unavailable/he has not been found in his residence or anywhere else to date.

As agreed with the prosecutor, he will in the future hear the identified police officers and issue an order to conduct an investigation, after which, should N.M. identify them, this unit would submit a report on the discovery of the perpetrators to the District Prosecutor's Office of Istocno Sarajevo. In this incident, there were no internal proceedings because the first information about the incident was given to the Unit on 17 January 2012 when the statute of limitations applied to initiating and conducting internal proceedings under the Rules of disciplinary responsibility of police officers, but the Internal Affairs Inspectorate acted upon a request of the District Prosecutor's Office of Istocno Sarajevo that facts and evidence should be gathered for the criminal proceedings. Once the Unit has

been informed by the District Prosecutor's Office of Istocno Sarajevo or the Istocno Sarajevo Police Station that an indictment against the police officers has been filed and confirmed by a court, the Internal Affairs Inspectorate will take measures and actions within its competences/will initiate proceedings against the police officers to determine their disciplinary responsibility.

Since 1 May 2013 the Public Security Centre of Banja Luka has been using appropriate rooms in the Public Security Centre building for the accommodation of detained persons and not the offices as it did in the previous period (which is evident from the CPT's report).

Furthermore, by examining the CPT's report, it was found that the findings listed in the report respecting the Gradiska Police Station related to the criminal offense of "robbery" under Article 233 of RS CC, which had been committed on 13 October 2012 in the "Uspomene - Memories" goldsmith's shop in Nova Topola, Municipality of Gradiska, to the detriment of V. Z. In this case a report no. KU-327/12 dated 14 October 2012 against S.N. of Bugojno and U.E. was submitted to the District Prosecutor's Office of Banja Luka. After inspecting the file the Banja Luka Police Station did not find facts that would justify the findings listed in the CPT's report and found that no force was used against the suspects during criminal investigation and work with them. The submitted response noted that, examining the official records of the Gradiska Police Station, they did not find any complaints about the work of police officers on the case.

The section of CPT's report respecting the visit to Dobož Police Station brings only one objection and it refers to one person (without specifying the name of the person) that was in remand prison at the time of visit who alleged that he was apprehended and handcuffed at his home in Dobož at 6.20 a.m. and remained present while a search of his house was carried out. Checking the relevant documentation at Dobož Police Station the CPT delegation found that the documentation noted 10.25 a.m. as the time of arrival at the station, so the CPT recommends in paragraph 11 that the maximum possible period of deprivation of liberty of 24 hours as from the moment of apprehension is strictly observed.

Verifying the statements of CPT's report, on the basis of the records of persons deprived of their liberty kept by the Criminal Police of Dobož Police Station, it was ascertained that this finding referred to the deprivation of liberty of M.M., son of Z., who was born on 29 April 1983, who was apprehended by police officers of Dobož Police Station on 18 September 2012 at 10.25 a.m. on suspicion of having committed the crime of unauthorized production and sale of narcotics in violation of Article 224, paragraph 2 of RS CC. The person was handed over to the District Prosecutor's Office of Dobož together with a report on the crime committed the same day at 1.20 p.m.

Inspecting the file, it was found that M.M.'s family house in Dobož was searched on that day starting at 06.20 a.m. by order of the District Court of Dobož No. 13 0 K 002036 12 Kpp 36 dated 14 September 2012, but the person was not arrested before the search or during the search, nor was he handcuffed, but after completion of the search he was orally called to the Dobož Police Station for giving information about the criminal offence he was charged with, where he arrived accompanied by police officers. The above is described in police reports and file notes prepared by the police officer who carried out the search and who called M. to the Dobož Police Station and all this can be seen from the certificate of detention that was duly served on M. and other supporting records to which he did not make any objection after the decision to detain him. M. was not tied even after the arrest or hand-over to the prosecutor's office, which is also seen in the records of arrest. As for the time Mujić spent in the police, the official records, minutes and relevant certificate show that he only spent 2 hours and 55 minutes in custody (from 10.25 a.m. to 1.20 p.m. on 18 September 2012), so even if we count the time from the time of commencement of the search at 6.20 a.m. to the time of hand-over to the prosecutor's office at 1.20 p.m., it is only 7 hours.

As for the rooms for accommodation of persons deprived of their liberty, organizational units of the Dobož Public Security Centre are as follows: nine (9) police stations have general jurisdiction and four (4) of them do not have any rooms to house detainees, one (1) police station has 2 (two) inadequate rooms and four (4) police stations have adequate rooms.

Bijeljina Public Security Centre – paragraph 14 of the report notes: “a person arrested in flagrante in Bijeljina in November 2012, claimed that he was repeatedly kicked by a number of police officers after he had been handcuffed and forced to lie prone on the ground. At the police station, he alleged he was taken to the basement detention area where he received punches and kicks to his ribs from several crime inspectors while still handcuffed. And, that the next morning, during interrogation, he was again punched and kicked in the body and threatened with being beaten with a baseball bat and with being drowned in the Drina River”.

The circumstances were as follows: On 16 November 2012, at 11.20 p.m. police officers of Bijeljina Support Unit apprehended P.Ž., son of D, who was born on 29 July 1975 in Novi Sad, Republic of Serbia, residing in Ruma, Republic of Serbia, while he was attempting to commit the criminal offence of burglary, breaking into T.D.’s house at Gračanička no. 1 in Bijeljina. During the apprehension a police officer of Bijeljina PSU, team leader L. B., used a means of restraining - official handcuffs.

In accordance with Article 32, Paragraph 8 of the Law on Police Officials, the circumstances of his apprehension and the use of means of restraining /handcuffs were recorded in an official note, the person was issued a certificate of detention No. 10-01/4-179/12 dated 16 November 2012, which the person signed and it confirmed that when no visible injuries were observed. A report on a strip search without a warrant was made under no. 10-01/4-179/12 on 16 November 2012 and the person was advised about rights of apprehended persons (certificate no. 10-01/4-179/12 dated 16 November 2012). The certificate shows that the person had no request for a lawyer or medical services or to inform his family about the arrest. The person, together with the hand-over paper No. 10-01/4-179/12 dated 16 November 2012, was handed over to Bijeljina Police Station for further action. In the hand-over paper the Bijeljina police officers noted that the person was taken over with no visible injuries. The person was offered to personally write and sign a statement whether he had any objections to the conduct of police officers of the Bijeljina Police Station, which he accepted and declared in writing that he had no objections. The commander of the Bijeljina Police Station compiled a file with all supporting documentation about the apprehension under no. 10-01/1-796/12 on 19 November 2012. The Bijeljina police officers only used means of restraining /official handcuffs, and other means of restraining were not used.

Paragraph 33 of CPT’s report reads: „At Bijeljina Police Station, the three holding cells (each 8.5m²), located in the basement of the building, had no access to natural light, were foul-smelling and lacked ventilation; further, the artificial lighting in the cell occupied at the time of the visit was not functioning.”

With regard to paragraph 33, we are informing you that in Bijeljina Police Station there are three holding cells (each 8.5m²). Each cell has a window pane of 107 cm and 57 cm admitting daylight into the cells. In the cells, as well as in the entire basement, there is no ventilation and a bad smell or a stench can sometimes be felt in the basement and even in the cells. In each cell there is lighting that is functioning.

The rooms to accommodate detained persons meet the minimum standards. Each cell is equipped with a bed and they also possess the toilet.

Paragraph 24 of CPT's report reads: "Many persons interviewed by the delegation were apprehended by the police at their homes or on the street and subsequently taken home for a house search. Thus, their families became aware of their detention shortly after the deprivation of liberty became effective. However, several persons apprehended outside their home and escorted directly to a police station alleged that they had not been given the opportunity to inform a relative or other third party of their choice of their detention".

With regard to this, we are informing you that in 2012 and in the period January - May 2013 a total of 161 persons arrested by the police officers of Bijeljina Police Station asked to inform a relative or other individual about the arrest, which was granted.

Paragraph 25 of CPT's report reads: "As regards the right of access to a lawyer the situation remains unsatisfactory. Access to a lawyer as from the outset of deprivation of liberty was not being granted in the vast majority of cases. Instead, such access only occurred when the person was brought before a prosecutor to give a statement or at the hearing before a judge. Moreover, it was usually not possible for a person to consult with his or her lawyer in private prior to appearing before a prosecutor or a judge".

With regard to this, we are informing you that in 2012 and in the period January - May 2013 a total of 39 persons arrested by the police officers of Bijeljina Police Station asked for a lawyer, which was granted.

Paragraph 27 of CPT's report reads: "Many persons met by the delegation stated that they had not been allowed to have access to a doctor when they were held in a police station. Access to medical care (i.e. through recourse to the emergency services) was generally only provided when ordered by a prosecutor or judge or when the judicial police refused to accept a particular person from the police because they displayed visible injuries".

With regard to this, we are informing you that in 2012 and in the period January - May 2013 a total of 104 persons arrested by the police officers of Bijeljina Police Station asked for medical services, which was granted.

Concerning CPT's findings under paragraph 29 that there are not standardised and unified custody registers in place in all police stations, that at Bijeljina Police Station, the duty police officer keeps the custody register pertaining to persons held in the detention cells while the criminal police maintained their own register of persons in their custody, that a person's deprivation of liberty is only recorded once a statement has been provided, we are providing the following information: Section 42 of the Guidelines on the treatment of persons deprived of their liberty enacted by the Minister of the Interior on 6 October 2011 provides that as of 1 January 2012 records of detained persons are kept only electronically and standardized and unified management of detained persons is thereby ensured. It is true that in 2012 the criminal police kept electronic records along with written records in the book from previous years that was the only book found and inspected by the CPT Delegation, but the written records are not required; they are not official but they are only there for ease of reference to serial numbers of records instead and it is not possible to determine from the records at what point they were entered (before or after taking statements). Please note that during the visit, the CPT's did not inspect the electronic official records of the persons deprived of their liberty and the police officers were warned by their commanders to keep the records with due diligence.

In paragraph 15 of CPT's report, the CPT reiterates its recommendation that the Minister of Interior of the Republika Srpska should deliver a strong message that all forms of ill-treatment of detained persons, whether at the time of apprehension or transportation or during subsequent questioning, are illegal and unprofessional and will be the subject of severe sanctions. This message should be repeated at appropriate intervals by the Director of Police.

The recommendation has been complied with in the manner described in the 2007 recommendation and it was after the last visit in 2012 that the Minister of the Interior of the Republika Srpska ordered that the Police Director should send a circular letter to all organisational units, once again ordering the police officers to strictly adhere to the Constitution and laws governing human rights and the treatment of persons in custody and on that basis the Director, the Criminal Police Administration and the Police Administration sent several circular letters. The letter that the Minister of the Interior sent to the Police Director and the Resources and Finance Administration ordered to find out as soon as possible the funds to build facilities for accommodation of persons deprived of their liberty in the Banja Luka Public Security Centre. Acting on the orders of the Minister, the Banja Luka Public Security Centre reconstructed three rooms to accommodate detained persons that meet necessary requirements.

Paragraphs 25, 26 and 27 of CPT's report deal with rights of people in custody including the right of access to a lawyer, the appointment of ex officio lawyers and access to a doctor when they are held in a police station.

As stated above, the Director, the Criminal Police Administration and the Police Administration sent several circular letters ordering the police officers to strictly adhere to the Constitution and laws governing human rights and the treatment of persons in custody and informing them that in the event of non-compliance they would be sanctioned both in criminal and disciplinary proceedings.

Paragraph 33 of CPT's report explains the condition of the premises for accommodation of persons deprived of liberty, namely the size and habitability of the premises and in relation to the above the CPT recommends that the above-mentioned deficiencies in the police stations visited be remedied. With regard to this paragraph, we are informing you that the issue of space for accommodation of detained persons is addressed in accordance with the budget and the deficiencies will be remedied in future. Examples of solving this problem are the three rooms in Banja Luka Public Security Centre and two rooms in Istočno Sarajevo Police Station.

The CPT report expresses dissatisfaction with a lack of an independent control mechanism of police officers of the Ministry/a lack of a public authority that is independent of the Ministry, which would investigate received complaints and grievances of citizens.

In this connection, on 14 May 2013, in the Police Director's office, the Police Director, Mr. Gojko Vasic, had a meeting with the head of the Banja Luka OSCE Office, Mrs. Violeta Kovacevic, and the meeting was attended by officials of the Office of the Minister and Legal Adviser of the OSCE. At this meeting the head of the OSCE Office expressed readiness of the OSCE to help within its capabilities and mandate, on the basis of their past experience when, on several occasions, they monitored the work of police officers of the Ministry, especially in cases involving prosecution of police officers. They gave a suggestion that the rooms where detained persons were held would be provided with flyers specifying the rights of persons deprived of their liberty in case of misconduct by police officers/when they were not in compliance with applicable laws and legal regulations governing this area.

The meeting highlighted the willingness and openness of the Ministry to enable the OSCE to monitor the process of detention in certain cases as an independent body, in accordance with the recommendations of the CPT's report.

Ministry of Justice of the Republika Srpska

With regard to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter: CPT) made after the visit to the Ministry of Justice of the Republika Srpska and correctional institutions of the Republika Srpska in the period from 5 to 11 December 2012, we are giving our replies to CPT's findings and recommendations.

Further, we are informing you that the Ministry of Justice sent a copy of the CPT's report, immediately upon receipt, to correctional institutions in Banja Luka, Doboј, Istočno Sarajevo and Bijeljina for comments, so, in that sense, the present report is a consolidated response of prisons which were visited and the Ministry of Justice of the Republika Srpska.

Comments on the report are given by paragraph numbers referring to specific comments or recommendations, as follows:

Paragraph 36

In June 2013, Bijeljina Prison will complete required documentation and, thereby, meet the requirements for obtaining IPA funds to finish the construction of the new prison facility at Golo Brdo. The announcement of international tender for selection of a contractor and contracting will be conducted by IPA fund in cooperation with the Ministry of Justice of the Republika Srpska.

Paragraph 37

The management of Bijeljina Prison has no information on cases of abuse of prisoners.

Based on the recommendation under the CPT's Report, this facility conducted an additional investigation of allegations of ill-treatment of prisoners, including verbal abuse and on this occasion, interviews were carried out with the management and other employees of the security service directly working with prisoners. According to the obtained data, the impression was that some of the prisoners, for their own reasons, gave wrong information to the CPT delegation.

In addition to being informed about the regulations pertaining to the execution of criminal sanctions, every new prisoner receives a leaflet which explains the procedure and the possibility of filing complaints.

Besides the possibility of filing complaints in regular procedure, the prisoners may also use the mailbox in which they may put in all types of complaints and which is posted for this purpose in the ward. Also, the Council of Prisoners, which is very active in this institution, has not informed the administration yet about alleged cases of abuse.

This is supported by the fact that Bijeljina Prison is not an institution in which means of restraining are often used. In 2011 there were 2 cases of use of force and in 2012 there were also 2 cases. In all these cases the use of the mildest forms of force was justified (combative methods and means of restraining).

In the previous period, Bijeljina Prison has organized the educational training for all employees on the European Prison Rules, Standards of CPT and the European Convention for the Prevention of

Torture and Inhuman or Degrading Treatment or Punishment. The management of the institution wishes to highlight its determination on resolving conflicts by using peaceful means and by minimizing the use of force.

Data on the training can be found in the training book in which exact times of training, lecturers and present staff can be found.

Bijeljina Prison takes measures so that all employees, through regular meetings, are warned about the necessity of professional relations and treatment of prisoners and detainees.

Any reported or detected case of abuse will be investigated and prosecuted.

Paragraph 38

Article 137 of the Republika Srpska 2010 Law on Execution of Criminal Sanctions (Official Gazette No. 12/10 and 117/11) states: „In order to maintain order and discipline and to preserve the general safety of the Institution, to the prisoners who constantly threaten the order and safety can be imposed the specific measures set out in this law, namely: a) increased supervision, b) the seizure and temporarily keeping things whose posture is allowed v) testing on infectious diseases, alcohol and drugs, g) transferring into a room with no dangerous items, d) accommodation in a section with a maximum security and intensive treatment programs and e) isolation.“

According to the provisions of the above mentioned article, more than one specific measure may be imposed on a convicted person simultaneously, so the application of these measures and the means of restraining are not treated as a disciplinary punishment.

According to the CPT's report, in the room number 6 of the remand section of Bijeljina Prison, only convicted persons are placed in accordance with Article 132, Paragraph 2 and paragraph 3 of the Law on Execution of Criminal Sanctions of Republika Srpska, which provides that prisoners who committed the most serious disciplinary offenses **may be separated from other prisoners in a special room without dangerous items** even before the beginning or completion of the disciplinary proceedings, if there is a risk of violent acts against persons and property, risk of murder and self-harm or danger to security in the institution, which cannot be removed otherwise, which is decided on by the head of the Institution, and the time of separation lasts as long as the reasons for separation exists and it cannot last longer than 72 hours.

The security service and the treatment service give their suggestions and opinions to the Director of the facility for each separation in the aforementioned room, who, on the basis of these opinions and proposals makes a decision on separation of the person. The decision of Director is realized through a written order, which contains exact name and surname of the person who will be separated, time of the separation (no longer than 72 hours), the reason for separation and data on compulsory medical examination before separation.

Records on separation are maintained by the head of the security service and information on separation is submitted to the Ministry of Justice of the Republika Srpska on a monthly basis through a statistical monthly report.

Bijeljina Prison has proper and accurate records of the persons on whom special measures for maintaining order and security or "separation into a room without dangerous items" are imposed and all written orders for separation in the previous period, to which, at any time, may be granted access.

As for the conditions in the room, it is true that it contained only one mattress and it is for security reasons. In the previous period, in the situation when a bed was in the room, it was used for an attempt of escape from the detention unit, when the bed was a convenient tool used to reach the ceiling of the room and dig it in order to exit the room through the roof. The ceiling is made of cane, and not of any other solid material. In the previous period, one person who was placed in this room with the above mentioned ceiling, set a fire, damaged it and also caused great danger to other persons, for which he was convicted before the Basic Court in Bijeljina.

In light of the previous statements, we would like to stress that a room number 6 in the remand section **is not used to hide people who are injured from other prisoners**, as the delegation had wrong impression during the visit and which was noted as a comment in their Report.

Also, we wish to clarify that in the absence of Admission Department, the room number 4, within the remand section, is used for the temporary accommodation of newly admitted prisoners, and that their stay in this room is short.

Due to the inability to differently organize and the lack of space, which Delegation could see during the visit, the room without dangerous things (room number 6) and the room for temporary accommodation of newly-arrived convicted persons (room number 4) are within the remand section and not within the prisoners' ward, as they should be.

After the recommendations and comments of the CPT Delegation, a bed is returned into room number 6.

Any person accommodated into the institution who has visible injuries or complaints about the abuse by members of the police will be immediately examined in the health care service, who will properly record the examination, and, as required, photograph injuries and draw the attention of the competent prosecutor to this matter.

Paragraph 40

In the period after the visit of the CPT Delegation, the authorized officers of the Ministry of Justice of the Republika Srpska conducted a regular inspection of the Bijeljina Prison during which they found *inter alia* a problem of the lack of space in the facility for accommodation of prisoners. Aware of the fact that this problem can be solved only through adequate relocation to the new prison, and in accordance with the findings of the inspection, they gave to the management a recommendation for a detailed analysis of the available space and consideration of reduction of the capacity.

As for the other recommendations in this paragraph, in communication with the Ministry of Justice, Bijeljina Prison has announced that they intend to submit a request for approval of additional funds to adequately furnish the cells.

All members of the security service, especially to the commander of the detention unit and other managerial employees were reminded once again of the obligation to allow the detainees access to sanitary facilities at all times of day and night.

Heating of all rooms including the cell is provided from one boiler room. Technical performances of the heating system do not allow individual heating of the rooms. Some rooms have thermometers and the health service controls the temperature in the rooms. So far we have never had complaints from persons deprived of their liberty about bad heating of the rooms.

Paragraph 41

Bijeljina Prison

The problem of insufficient number of outdoor exercise classes of detainees is also a result of inadequate conditions. The main obstacle to going for longer walks is inability to allow detainees from different rooms to go for a walk together because of the large number of prisoners in the prison, and they cannot be allowed to take part together in any activities because of the proceedings against them before the court. The problem of insufficient number of hours of walking is more aggravated during the winter because the day is shorter while in the summer the problem is solved by extending walks until the evening hours, or until there is daylight.

It is important to note that the situation when a large number of prisoners are walking at the same time increases the possibility of compromising the security of the institution and the safety of prisoners and because of the possibility of mutual physical confrontation.

As for the recommendation that "space for outdoor exercise must be equipped with shelter against bad weather and something to sit on during the break," we point out that in these circumstances there is no technical possibilities to cover up the space for walking without compromising security of the institution, as several escapes from the walking area have been already attempted. In the walking area there are two wood benches where detainees can rest.

In an effort to comply with the recommendations of the CPT Delegation, Bijeljina Prison have taken measures to combine a number of prisoners from different rooms in walks if they are not complicit in the same offense, which allows longer stay of prisoners outdoors.

Banja Luka Prison

Communication between detainees placed in different cells is treated as a disciplinary offense as prescribed in Article 37 Paragraph 3 point i) of the Correctional Institutions House Rules ("Official Gazette of the Republika Srpska" No. 35/11), which specifies that this type of disciplinary offenses involves "chatting, calling, correspondence or any other way of establishing contact with detainees from other rooms or persons outside the institution" and is therefore binding upon all prisons and all employees in the institutions.

In connection with the observation that prisoners in Banja Luka Prison are not allowed to keep pencils in their cells, it must be explained that the use of pencils is placed under the supervision of officials for several, in our opinion, justifiable reasons (tattoo ink from pens causes transfer of infectious diseases, by advances in technology pencils have various prohibited substances, cameras, voice recorders ...). By putting the use of pens under control we observed both significantly lower exchange of prohibited messages and writing and drawing on the walls (the destruction of institutional property).

Based on the recommendations under CPT reports on the visit in 2011 and December 2012, a particular model of pencils is allowed in cells. We also want to stress that there was never restriction on the use of pencils, but only restriction on keeping them in the room after use.

As for the recommendations regarding furnishing of walking area with shelter in bad weather, we emphasize that in the previous period Banja Luka Prison made partitions in the walking area and now it is divided into three parts so that prisoners now can stay outdoors at least two hours a day. In this area there are also benches and outdoor showers, which are used during the summer.

In this institution the activity on completion of tender documentation for an extension of the prison building is in progress. By increasing the number of available rooms the capacity of prison will be increased and also conditions for additional activities of prisoners will be created.

Paragraph 43

The lack of space in Bijeljina Prison is the main reason why there are no more organized sports clubs and workshops for inmates. This problem is aggravated particularly in wintertime due to a lack of jobs when we are not able to employ more inmates. In particular, a major problem is the employment of convicted persons with a high level of risk which are classified as 'C' classification-stimulating group, because in winter, due to low temperatures, the concrete block production, in which they work, is suspended.

The institution makes great efforts to minimize the negative effects of these problems and directs activities towards finding and organizing different events in order to draw the attention of prisoners in their free time.

In order to eliminate the objections set forth in this paragraph, Bijeljina Prison has undertaken the following activities:

- in cooperation with the Faculty of Teaching of Bijeljina, a pilot project named „Opismeni se“ has been launched for them
- an IT club has been started
- a language course has been organized for prisoners
- a cultural program has been organized for prisoners
- and visits to the theatre, cinema and sports events have been organized.

Paragraph 44

In terms of cooperation of the Ministry of Justice and the Ministry of Health of the Republika Srpska and regarding the establishment of a single set of standards in health care provision to prisoners and according to the recommendations of the Committee, the Ministry of Justice of the Republika Srpska will write a letter to the Ministry of Health with an initiative to establish cooperation in this and in all other issues of common interest.

Paragraph 45

Istočno Sarajevo Prison

Istočno Sarajevo Prison employed a full time general practitioner (8 hours).

Doboj Prison

With the approval of the Ministry of Justice, Doboj Prison has announced a doctor vacancy on several occasions, last time in August 2012, and it has to be noted that the interest for employment in this position was really minimal. The last published vacancy resulted in only one candidate's application and he was employed in October 2012, but he, by his own choice, stayed there only for two months.

Bijeljina Prison

We considered justifiable the objection that Bijeljina Prison should fill the vacant nursing post, which will be done in the future in consultations with this correctional institution and actions will be taken in this regard.

Banja Luka Prison

Regarding the recommendation for employment of at least two qualified nurses, the administration of prison wrote a request to the Ministry of Justice for approval of employment of two medical technicians (nurses), to which the Ministry of Justice responded positively. These two vacant positions will be filled after approval of funds from the budget of Republika Srpska for the next year.

Paragraph 47

Istočno Sarajevo Prison

After the CPT visit, Istočno Sarajevo Prison has expanded the health care facility and the capacity is increased with another examination room.

Also, medical records have been properly filed and the records have been updated with files of individual convicted persons and detainees.

Doboj Prison

Doboj Prison is currently implementing the CPT's recommendations by designating two separate rooms for health care facility: one room for a doctor, examinations and other medical interventions and another room for nurses, medical intervention and storage and administration of drugs and medical supplies.

Bijeljina Prison

We considered justifiable the objection that in Bijeljina Prison conditions in the health-care facility were inadequate, but, as we have said on several occasions, this issue will be adequately addressed once the new prison becomes operational.

Paragraph 48

The Law on Execution of Criminal Sanctions of Republika Srpska ("Official Gazette of the Republika Srpska, number 12/10 and 117/11) in Article 72 provides that the health condition of prisoners is assessed no later than 24 hours after admission. In cases where it is not objectively possible, the examination is carried out the next working day.

As for the detainees, Article 173 of the Law on Execution of Criminal Sanctions of Republika Srpska provides that a medical examination of detainees is carried out immediately after admission to the facility and the findings and opinion of the doctor are recorded into the medical records. Taking into account the provisions of the law, the duty of prisons is to ensure enforcement of the procedures prescribed by law. In the future, special attention will be given to this issue.

Paragraph 49

In connection with the recommendation that it should be provided that the practice of work of prison doctors in cases of reporting and recording of injuries in all prisons must be consistent, the Ministry of Justice will take all necessary actions and activities to train medical staff in connection with the recommendations made in the Report.

Paragraph 50

Regarding the recommendation that all medical examinations of prisoners must be conducted out of the hearing and – unless the doctor concerned requests otherwise in a particular case – out of the sight of prison officers, the Ministry of Justice will, , take all necessary actions and activities to train the medical staff regarding the recommendation.

Paragraph 51

The Law on Execution of Criminal Sanctions of Republika Srpska does not expressly requires that upon admission of the prisoners the doctors should make appropriate screening tests for communicable diseases of all persons.

However, the Ministry of Justice has information that in prisons for a long time there has been an accepted practice that in all cases where the prison doctor identifies the need for additional preventive specialist or laboratory examinations, he will, without delay, send the person in the appropriate health facility. For example, all persons who have declared or for whom it is conclusively established that they are drug abusers, the health services in prison will send such persons for examinations in order to determine the existence of communicable diseases, such as AIDS, hepatitis C and other diseases.

Paragraph 53

Article 28 of the Correctional Institutions House Rules ("Official Gazette of Republika Srpska" No. 35/11) provides that detainees, at the approval of the court and under its supervision or control of the person the court designates, are entitled to a visit once a week by members of their core families and relatives or other persons of their choice. Visits to detainees are carried out in a room in the correctional facility which is designated for supervised visits by officers and takes 30 minutes, but the competent court may approve a longer duration of visits. The room for visits has a physical barrier that separates the prisoners from the visiting persons, a barrier being made of Plexiglas or other similar transparent material.

Article 29 of the Rules stipulates that, with the approval of the court conducting the proceedings and after the confirmation of the indictment, any prison may be granted a conjugal visit. The conjugal visit lasts one hour in a special room in the correctional facility without supervision by officers.

As for visits paid to prisoners, Article 62 of the Correctional Institutions House Rules ("Official Gazette of Republika Srpska" No. 36/11) stipulates that, in accordance with the law, prisoners are entitled to have visits from family members. Upon the approval of the governor, the prisoners may be visited by other persons in cases where treatment services estimate that it could positively affect the convicted person.

Regular visits lasting 60 minutes will be granted at least once a month, with the possibility of granting of regular more frequent visits, as well as the prolonged duration of the visit. It is important to note that all visits are granted without physical barriers.

From the previously cited provisions it is evident that the courts which are conducting criminal proceedings have the responsibility for the visits to detainees, approving and setting conditions of the visits, while the role of the security service in prisons is within the framework of ensuring the conditions for smooth functioning of visits and their monitoring.

On the other hand, according to the information available to the Ministry of Justice, in the prison facilities there are no difficulties in granting visits procedure or during visits to prisoners.

Paragraph 54

Article 31 Paragraph 2 of the Rulebook on the security service, weapons and equipment, the use of firearms and means of restraint, labelling of equipment and vehicles in the penitentiaries of Republika Srpska ("Official Gazette of Republika Srpska" No. 38/11) provides that the strip-searching of detainees and prisoners is mandatory during the admission to prison or admission into custody, while bringing them to another place, in/from the prison visit room, and from activities within the prison, during placement in the room for serving a disciplinary penalty, during temporarily leaving of the prison and return to the prison and when released from the prison.

In terms of the cited provisions of the Rulebook, we believe that the recommendation to put an end to the routine practice of strip-searching and to introduce a policy of risk-assessed strip searches only, is not in accordance with the applicable national law.

In Bijeljina Prison the strip-searching of prisoners is carried out in a separate room for strip-searching which was furnished in 2012. Until then, strip-searching of prisoners took place in the available premises of the security service.

Strip-searching of the prisoner is carried out in accordance with applicable regulations, as the staff of this institution was trained by the Prison Staff Training Team of Bosnia and Herzegovina. One of the compulsory subjects in the security service staff training was strip-searching. Any strip-search is carried out in accordance with precisely defined rules, the order of actions and the manner of treatment of a person who is being searched.

As part of these activity, a written record of the completed strip-searching is required, containing the data of the person who is the subject of strip-search, the reason for the search, the time of strip-search, data on seized items, etc. Also, one of the items in the record on strip-search is the objection of the person to the strip-search, where a person can express objections to the performed strip-search. So far we have received no objections on the manner of strip-search of the persons deprived of their liberty.

According to the recommendations contained in the Report, Bijeljina Prison has issue an order that the staff have to have a professional attitude during strip-searching according to established procedures of the Prison Staff Training Team of in Bosnia and Herzegovina.

Any breach of procedures and misconduct will be sanctioned.

Paragraph 55

Bijeljina Prison has installed three telephone lines for the detainees to have conversations with the outside world. In the high security wards of the prison, the prisoners are allowed to telephone twice a day (morning and afternoon), while in the medium security wards the use of telephone is unlimited.

The system of use of telephone by prisoner is uniform in all prisons throughout the Republika Srpska and the same operator with the same call rates with no exceptions is selected.

In the previous period, it is true that immediately after the installation of the telephone lines in Bijeljina Prison certain problems occurred in sound quality during the phone calls. All complaints of the prisoners were forwarded on the same day to the operator who removed interferences in accordance with its technical capabilities.

In the period after the Report, certain steps have been taken so that when noticing interference during telephone call a person deprived of liberty has the ability to immediately inform prison staff about it who contact the operator in order to eliminate failure or perceived shortcomings. Also, the procurement of "booths" is progress, which will ensure privacy of conversations.