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**Report to the Government of "the former Yugoslav Republic of Macedonia" on the visit to "the former Yugoslav Republic of Macedonia" carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)**

**from 17 to 27 May 1998**

The Government of "the former Yugoslav Republic of Macedonia" has agreed to the publication of this report and of its interim and follow-up responses. The Government's responses are set out in document CPT/Inf (2001) 21.

Strasbourg, 11 October 2001

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Copy of the letter transmitting the CPT's report

Strasbourg, 16 December 1998

Dear Mr Ivanovski,

In pursuance of Article 10, paragraph 1, of the European Convention for the prevention of torture and inhuman or degrading treatment or punishment, I have the honour to enclose herewith the report to the Government of "the former Yugoslav Republic of Macedonia" drawn up by the European Committee for the prevention of torture and inhuman or degrading treatment or punishment (CPT) after its visit to "the former Yugoslav Republic of Macedonia" from 17 to 27 May 1998. The report was adopted by the CPT at its 37th meeting, held from 3 to 6 November 1998.

I would draw your attention in particular to paragraph 119 of the report, in which the CPT requests the relevant national authorities to provide an interim and follow-up report on action taken upon its report. The CPT would be most grateful if it were possible, in the event of the reports not being provided in English or French, for them to be accompanied by a translation into one of those languages. It would also be most helpful if the report were to be provided in a computer-readable form.

More generally, the CPT is keen to establish an on-going dialogue with the relevant national authorities on matters of mutual interest, in the spirit of the principle of co-operation set out in Article 3 of the Convention. Consequently, any other communication that the relevant national authorities might wish to make would also be most welcome.

I am at your entire disposal if you have any questions concerning either the CPT's report or the future procedure.

Finally, I would be grateful if you could acknowledge receipt of this letter.

Yours sincerely,

Ivan ZAKINE  
President of the European Committee for  
the prevention of torture and inhuman  
or degrading treatment or punishment

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## Preface

As the European Committee for the prevention of torture and inhuman or degrading treatment or punishment is a comparatively new institution, knowledge of its mandate and functions is inevitably limited. The CPT has therefore deemed it appropriate to begin the first of its reports to each Party by setting out some of the Committee's salient features. This should prove particularly helpful in differentiating the basis and aims of the CPT from those of another Council of Europe supervisory body within the field of human rights: the European Court of Human Rights.

Unlike the Court, the CPT is not a judicial body empowered to settle legal disputes concerning alleged violations of treaty obligations (i.e. to determine claims *ex post facto*).

The CPT is first and foremost a mechanism designed to **prevent ill-treatment from occurring**, although it may also in special cases intervene after the event.

Consequently, whereas the Court's activities aim at "conflict solution" on the legal level, the CPT's activities aim at "conflict avoidance" on the practical level.

This being so, the guiding maxim for the CPT when performing its obligations must be to "extend the widest possible protection against abuses, whether physical or mental" (quotation from the 1979 UN Code of conduct for law enforcement officials as well as from the 1988 Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment, both adopted by the General Assembly).

The CPT's activities are based on the concept of co-operation (Article 3 of the European Convention for the prevention of torture and inhuman or degrading treatment or punishment). The CPT's task is not to publicly criticise States, but rather to assist them in finding ways to strengthen the "cordon sanitaire" that separates acceptable and unacceptable treatment or behaviour. In fulfilling this task the CPT is guided by the following three principles:

- i) that the prohibition of ill-treatment of persons deprived of their liberty is absolute,
- ii) that ill-treatment is repugnant to the principles of civilised conduct, even if used in milder forms, and
- iii) that ill-treatment is not only harmful to the victim but also degrading for the official who inflicts or authorises it and ultimately prejudicial to the national authorities in general.

The CPT first of all explores the prevailing factual situation in the countries it visits. In particular it:

- i) examines the general conditions in establishments visited;
- ii) observes the attitude of law enforcement officials and other staff towards persons deprived of their liberty;

- iii) interviews persons deprived of their liberty in order to understand how they perceive (i) and (ii) and hear any specific grievances they may have;
- iv) examines the legal and administrative framework on which the deprivation of liberty is based.

Subsequently, the CPT reports to the State concerned, giving its assessment of all the information gathered and providing its observations. In this regard, it should be recalled that the CPT does not have the power to confront persons expressing opposing views or to take evidence under oath. If necessary, it recommends measures designed to prevent the possible occurrence of treatment that is contrary to what reasonably could be considered as acceptable standards for dealing with persons deprived of their liberty.

In carrying out its functions, the CPT has the right to avail itself of legal standards contained not only in the European Convention on Human Rights but also in a number of other relevant human rights instruments (and the interpretation of them by the human rights organs concerned). At the same time, it is not bound by the case law of judicial or quasi-judicial bodies acting in the same field, but may use it as a point of departure or reference when assessing the treatment of persons deprived of their liberty in individual countries.

To sum up, the principal differences between the CPT and the European Court of Human Rights are:

- i) the Court has the primary goal of ascertaining whether breaches of the European Convention on Human Rights have occurred. By contrast, the CPT's task is to prevent abuses, whether physical or mental, of persons deprived of their liberty from occurring; it has its eyes on the future rather than the past;
- ii) the Court has substantive treaty provisions to apply and interpret. The CPT is not bound by substantive treaty provisions, although it may refer to a number of treaties, other international instruments and the case law formulated thereunder;
- iii) given the nature of its functions, the Court consists of lawyers specialising in the field of human rights. The CPT consists not only of such lawyers but also of medical doctors, experts in penitentiary questions, criminologists, etc;
- iv) the Court only intervenes after having been petitioned through applications from individuals or States. The CPT intervenes ex officio through periodic or ad hoc visits;
- v) the activities of the Court culminate in a legally binding finding as to whether a State has breached its obligations under a treaty. The CPT's findings result in a report, and, if necessary, recommendations and other advice, on the basis of which a dialogue can develop; in the event of a State failing to comply with the CPT's recommendations, the Committee may issue a public statement on the matter.

## I. INTRODUCTION

### A. Dates of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as "the Convention"), a delegation of the CPT carried out a visit to "the former Yugoslav Republic of Macedonia" from 17 to 27 May 1998.

The visit formed part of the CPT's programme of periodic visits for 1998. It was the CPT's first visit to "the former Yugoslav Republic of Macedonia".

2. The visit was carried out by the following members of the CPT:

- Mr John OLDEN, Second Vice-President of the CPT (Head of Delegation)
- Ms Silvia CASALE
- Mr Lambert KELCHTERMANS
- Ms Pirkko LAHTI
- Ms Maria SCIBERRAS.

They were assisted by:

- Ms Marianne KASTRUP, Medical Director of the Rehabilitation Centre for Torture Victims, Copenhagen, Denmark (expert)
- Mr James McMANUS, Scottish Prisons Complaints Commissioner, Edinburgh, United Kingdom (expert)
- Mr Arben ABDULLAHU (interpreter) (from 19 to 26 May)
- Ms Lenče ČADLOVSKA (interpreter)
- Mr Bojan DIMITROV (interpreter)
- Ms Olivija DIMOVA (interpreter) (from 21 to 26 May)
- Ms Roumyana IVANOVA (interpreter) (from 18 to 20 May)
- Ms Ermira MEHMED (interpreter) (from 21 to 23 May)

and were accompanied by the following members of the CPT's Secretariat:

- Mr Mark KELLY
- Ms Bojana URUMOVA.

**B. Establishments visited**

3. The delegation visited the following places of detention:

Establishments under the authority of the Ministry of the Interior

- Bitola Police Station
- Gostivar Police Station
- Kumanovo Police Station
- Medžitlija Border Police Station
- Prilep Police Station
- Bit Pazar Police Station, Skopje
- Centar Police Station, Skopje
- Gazi Baba Police Station, Skopje
- Tetovo Police Station

Establishments under the authority of the Ministry of Justice

- Idrizovo Prison (including the Closed Unit at the State Hospital, Skopje)
- Tetovo Educational-Correctional Institution

Establishments under the authority of the Ministry of Health

- Demir Hisar Psychiatric Hospital

Establishments under the authority of the Ministry of Defence

- Medžitlija Border Guard Station
- Sopot Border Guard Station

\* \* \*

The delegation also went to the remand sections of Skopje and Bitola Prisons in order to interview a number of prisoners who had recently been held in police custody.

**C. Consultations held by the delegation**

4. In addition to meetings with the local officials in charge of the places visited, the delegation held consultations with national authorities and representatives of international and non-governmental organisations active in areas of concern to the CPT.

A list of the authorities and organisations with which the delegation held consultations is set out in Appendix II to this report.



**D. Co-operation encountered by the delegation**

5. At the outset of the visit, the delegation was received by Mr Gjorgji SPASOV, the Minister of Justice, Mr Petar ILIEVSKI, the Minister of Health, General Pande PETROVSKI, Deputy Chief of General Staff for Combat Readiness at the Ministry of Defence and Mr Ljubomir MIHAJLOVSKI, Under-Secretary at the Ministry of the Interior. Further, in the course of the visit the CPT's delegation had fruitful discussions with senior officials from the above-mentioned Ministries.

At local level, the delegation met with an excellent reception from management and staff at all establishments under the authority of the Ministries of Defence, Justice and Health, including those which had not been notified in advance of the CPT's intention to carry out a visit. It found that many of them were aware of the possibility of a visit and had at least some knowledge of the CPT's terms of reference.

6. The delegation did encounter certain difficulties whilst visiting establishments falling under the authority of the Ministry of the Interior. In particular, in a number of police stations the delegation experienced significant delays/impediments in obtaining access to documentation, including records of detention, and to certain rooms in those stations, including offices where interrogations took place.

Although police officers had been made aware that CPT delegations enjoy a right of access to custody suites and the right to carry out interviews in private with persons deprived of their liberty, they had not been informed that Article 8, paragraph (2)(c), of the Convention provides that CPT delegations are to enjoy "unlimited access to any place where persons are deprived of their liberty, including the right to move inside such places without restriction". Similarly, it had not been made clear that, under paragraph (2)(d) of the same Article, visiting delegations are to be provided with "other information available to the Party which is necessary for the Committee to carry out its task". Consequently, on a number of occasions, the delegation was obliged to contact its liaison officer, the Assistant Minister for the Police, in order to obtain the aforementioned facilities.

The above-mentioned difficulties were eventually resolved in a satisfactory manner. Nevertheless, the problems experienced by its delegation highlight **the need for State Parties to disseminate to all the relevant authorities, including those working at local level, detailed information on the CPT's mandate and the obligations of the authorities concerned.**

7. It should also be noted that the delegation was not supplied in good time with lists of places of detention under the authority of the Ministries of Defence and the Interior. Although the CPT had requested such lists from the authorities well before the visit, they were only received after the visit had commenced.

In this respect, **the CPT wishes to recall that under Article 8, paragraph 2(b) of the European Convention for the prevention of torture and inhuman or degrading treatment or punishment, Parties must provide the Committee with "full information on the places where persons deprived of their liberty are being held"**.

## II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

### A. Establishments under the authority of the Ministry of the Interior

#### 1. Preliminary remarks

8. The police may deprive persons of their liberty<sup>1</sup> on their own authority if they suspect that the persons concerned have committed a crime. According to Article 12 of the Constitution, persons deprived of their liberty must immediately be brought before the investigating judge, who will either order their release or remand them in custody (in which case they will be transferred to a prison). However, exceptionally, such persons may be held<sup>2</sup> by the police for up to 24 hours before being presented to the investigating judge, if this is necessary in order to establish their identities, to verify the existence of an alibi or to gather other necessary information.

In addition, the Law on Internal Affairs (LIA, section 29) and sections 29 to 37 of the Regulations for the Ministry of the Interior (RMI) provide for the holding for up to 24 hours of a person who disrupts or endangers the public order and peace.

9. The police may also issue a summons (*pokana*) "inviting" persons to present themselves on police premises in order to provide information (so-called "informative talks" (*izvestuvanje*)). A person who refuses to respond to such a summons may not be apprehended without prior authorisation by a court; however, in the course of the visit, it emerged that an "informative talk" can lead directly to a period of formal deprivation of liberty (e.g., if during that talk, police officers come to the conclusion that the interviewee may have committed a crime). Questioned about this, senior police officers indicated that, in such cases, the time spent on police premises engaged in informative talks would be counted as part of the 24 hour maximum period of police custody. However, the delegation found that the records kept of informative talks often did not include the times at which such discussions had begun and ended.

**The Committee would like to receive confirmation that time spent on police premises engaged in informative talks leading directly to a period of deprivation of liberty should always be counted as part of the 24 hour maximum period of police custody. In the affirmative, it would like to receive a detailed account of the measures taken by the relevant authorities to ensure that this is the case.**

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<sup>1</sup> **Deprivation of liberty** (*lišuvanje od sloboda*) is governed by sections 188(1) and (2) of the CCP and sections 44 to 48 of RMI.

<sup>2</sup> Section 188(3) of the CCP governs **holding** (*zadržuvanje*). Section 143 of the same law provides for the holding of persons found at the place of the commission of a crime for up to 6 hours, pending their transfer to an investigating judge.

10. All police forces in "the former Yugoslav Republic of Macedonia", including the uniformed branches (responsible for the maintenance of public order and peace, traffic, border control and security on the lakes), the criminal investigation department and the directorate for security and counterintelligence (protection from espionage, terrorism and organised crime), fall under the authority of the Ministry of the Interior.

## **2. Torture and other forms of physical ill-treatment**

11. In the period preceding its delegation's visit to "the former Yugoslav Republic of Macedonia", the CPT gathered information from a variety of sources regarding the manner in which persons were treated by the police. That information included a significant number of allegations of physical ill-treatment of detained persons by police officers, both at the time of arrest and during their time in police custody.

12. A number of the more serious allegations related to events surrounding the demonstrations which took place in Gostivar and Tetovo on 9 July 1997, which culminated in the deaths of three demonstrators and injuries to some 200 persons, both police officers and demonstrators. In this connection, the CPT has taken note, inter alia, of the following comments made by the Special Rapporteur on the situation of human rights in the territory of the former Yugoslavia in her final report to the United Nations Commission on Human Rights:

"On the basis of the information that has been made available to her, the Special Rapporteur has concluded that the police used excessive force against demonstrators during the confrontation in the streets of Gostivar. She also believes that the police used excessive force and illegal methods afterwards, when they conducted a neighbourhood sweep of residents' homes. During the incident in the streets, police brutally attacked and beat many people who were offering no resistance, in some cases even assaulting children.... The police detained dozens of persons, many of whom were reportedly beaten while in police custody... the Special Rapporteur is convinced that the force used by the police in the Gostivar incident far exceeded the reasonable level required to restore law and order to the situation."<sup>3</sup>

In September 1997, the Parliament decided to establish a Committee of Inquiry into these events. In its report, adopted by the Parliament on 31 March 1998, the Committee stated that it: "... considers that there were cases of exceeding authority by individuals and groups... moreover, it is indisputable that in the course of arresting certain citizens during the operation and in the period following it, there were instances where certain members of the police exceeded their authority and did not proceed according to law."<sup>4</sup>

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<sup>3</sup> cf. paragraphs 18 and 19 of document E/CN.4/1998/12

<sup>4</sup> cf. the Report of the Committee of Inquiry of the Assembly of Macedonia to Investigate the Possible Exceeding of Authority in the Police Intervention in Gostivar on 9 July 1997.

13. The CPT understands that, after having considered the Parliamentary Committee's report, Parliament requested the Government to provide within one month (i.e. by 31 April 1998) details of the concrete action which it intended to take in order to prevent a recurrence of such events. **The CPT would like to receive details of any measures which may have been taken by the Government in this respect.**

14. In the course of the visit itself, the delegation received a considerable number of allegations from persons deprived of their liberty regarding very recent ill-treatment in police custody. The allegations related to police stations throughout the country, and the forms of ill-treatment alleged included threats of physical violence, punches, kicks and blows from baseball bats, batons and metal rods or cables. Certain detained persons also alleged that they had been repeatedly struck on the palms of the hands and/or the soles of the feet by police officers.

In a significant proportion of those cases, the delegation gathered medical evidence which was consistent with the accounts of ill-treatment made by the persons concerned. Further, the delegation was able to verify that those persons had been held in police establishments during the periods to which the injuries in question could be ascribed. The following cases are of particular illustrative value:

Case 1 A prisoner alleged that he was assaulted by police officers at the time of his arrest on 15 May 1998. He claimed that, after he had surrendered to a group of about 20 police officers in the street, he had been struck on the back of his head and on his back with a baton, punched in the face, and kicked in the stomach while two officers held him by the arms. He further alleged that, after having been brought to the Gjorče Petrov police station in Skopje for interrogation, he was struck several times by police officers.

The entry in the prisoner's medical file at Skopje Remand Prison, dated 16 May 1998, indicated that, upon arrival, he had displayed wounds on his back, a 5-6 cm haematoma in the area of his left eye and that he complained of having been struck on the chest (though no haematoma were observed in that area).

Upon examination by a medical member of the delegation on 21 May 1998, he displayed a 3 cm, scab-covered wound on the back of his head, a 1 cm wound under the left eye and a small, relatively fresh scar about 1 cm below that wound. Further, the regio temporalis was swollen and there were several haematomae undergoing reabsorption on the back, and, in particular, a yellow-greenish, 10 x 0.5 cm haematoma.

Case 2 A remand prisoner complained that he had been assaulted by police officers at the time of his arrest on 17 May 1998 and whilst detained at the Gazi Baba (Avtokomanda) police station in Skopje. He alleged that, at the time of his arrest, police officers beat him on the head and back with the butts of firearms and that, after his arrival at the Gazi Baba police station, police officers struck him with rubber batons about the face and head, and on the back, shoulders and thighs until, eventually, he lost consciousness. He apparently regained consciousness in a hospital, received stitches to his head wounds and was taken back to the Gazi Baba police station, where he was held until the following evening.

The prisoner's medical file at Skopje Remand Prison recorded that he had received treatment at an outside medical centre and that on admission to the prison on 18 May 1998, he displayed injuries including two head wounds and haematoma under the left eye and on the right hip. The file also recorded that he had subsequently complained to the prison's medical service of pain in the head.

When examined by a medical member of the CPT's delegation on 21 May 1998, the person in question displayed, inter alia, stitches on the regio parietalis sinistra, a 2 cm scratch covered with a scab behind the left ear; a scab-covered wound measuring approximately 1 cm x 1 cm on the right eyebrow; a small wound at the bottom of the nose; and the remainder of a haematoma under the left eye. In addition, there was a 2 x 0.5 cm scab-covered wound on the left regio scapularis and a 3 x 3 cm haematoma on the right distal region of the thorax. Diffuse yellow/greenish haematoma were apparent over the whole back of the thorax and under the left humerus (which continued to be slightly swollen). The person also exhibited a 1 x 1 cm wound some 2 cm above his right elbow, a 3 x 3 cm haematoma on the inner side of his right thigh and a slight haematoma, 5 x 0.5 cm in size, on the external side of the right thigh.

Case 3 Another remand prisoner, involved in a separate case, alleged that, on 17 May 1998, he had been assaulted by police officers at the time of his arrest. He also alleged that he had been kicked and struck on the back and head with a baton while handcuffed with his arms behind his back at Gazi Baba police station in Skopje.

The entry in the prisoner's medical file at Skopje Remand Prison, dated 19 May 1998, indicated that, upon arrival, he had: "Minor haematoma on the back. Signs of having been struck upon the back and head." When examined by a medical member of the CPT's delegation on 21 May 1998, he was found to display three wounds in the regio occipitalis, one about 5 cm long and the other two approximately 1.5 cm each. He had two superficial bruises on the regio scapularis with approximate diameters of 0.5 and 2.5 cm, respectively.

Case 4 A person who had been detained at Gostivar police station on 4 March 1998 stated that police officers had beaten him in order to extract a confession. He claimed that two plainclothes officers had used batons to strike him on the back, on the soles of both feet and on the palms of both hands, in the presence of two other plainclothes officers. He had allegedly been made to kneel facing the wall while beaten on the soles of both feet, and to stand with his back to the wall holding his hands out with his palms upwards while being beaten on the palms of his hands. He claimed that his requests to see a lawyer and a doctor had been denied, even though his feet had turned dark and swollen and his toes had bled. His injuries reportedly impeded his walking for ten days afterwards.

The medical record at Skopje Remand Prison, where the person in question was taken following his detention in Gostivar police station indicated that, on arrival at the prison on 5 March 1998, he had "haematomae on both palms and soles." By the time of the delegation's visit in mid-May 1998, these injuries had healed.

15. Reference should also be made to certain suspicious objects found in interrogation rooms in a number of police establishments visited. For example, when the delegation visited offices where suspects are questioned at the Gazi Baba police station in Skopje, it found various items which corresponded to the instruments which detained persons alleged had been used to ill-treat them. These included baseball bats, a metal rod and a cosh with a flexible handle bound with black and brown tape (measuring 1.6 cm in diameter at the bottom and 37 cm in length). Similar objects were found during visits to interrogation rooms at Bitola, Kumanovo and Tetovo police stations.

The delegation was told by police officers that the objects were all confiscated items destined for use as evidence in court proceedings. The procedure for docketing such items was described by the police as follows: each item is assigned with a number, placed in a plastic bag and kept in a storage room administered by the Ministry of the Interior. However, none of the above-mentioned items seen by the delegation bore any tag, and no documentation could be produced to support the statement that they were items confiscated and used in evidence.

16. It should be added that after the delegation's departure, it received reports concerning an alleged incident in the central part of the country, which had not been visited. On 24 May 1998, a 22-year-old man was reportedly beaten and threatened with a gun in Kruševo police station. Following the incident, the victim reportedly initiated criminal proceedings against three police officers and the commander of the police station. The Committee understands that the Ministry of the Interior has announced an inquiry into the incident.

The CPT would like to receive **information concerning the outcome of the aforementioned inquiry and criminal proceedings.**

17. On the basis of all of the information obtained by the CPT before, during and after the visit, the Committee can only conclude that physical ill-treatment of persons deprived of their liberty by the police in "the former Yugoslav Republic of Macedonia" is relatively common.

18. Later in this report (cf. paragraphs 28 to 46), the CPT will recommend the strengthening of certain formal safeguards against ill-treatment; however, the best possible guarantee against ill-treatment is for its use to be unequivocally rejected by police officers. It follows that the provision of adequate professional training, incorporating human rights principles, is an essential element of any strategy for the prevention of ill-treatment. Such training should be pursued at all levels of the police force, and should be ongoing. It should seek to put across and develop two points: first, that all forms of ill-treatment are an affront to human dignity and, as such, incompatible with the values enshrined in the Constitution as well as in many international instruments ratified by and binding upon "the former Yugoslav Republic of Macedonia"; secondly, that resort to ill-treatment is a fundamentally-flawed method of obtaining reliable evidence for combatting crime.

Further, particular attention should be given to training in the art of handling, and more especially of speaking to, persons in police custody, i.e. interpersonal communication skills. The possession of such skills will often enable police officers to defuse situations which might otherwise become violent.

19. In this respect, the CPT has noted that the relevant authorities are actively interested in improving the training of police officers, including through participation in the Council of Europe programme "Police and Human Rights 1997-2000". Areas which the Police Force has identified as priorities include in-service training of middle-ranking police officers, senior managers and heads of departments. Assistance is also being sought in reforming the education of police officers and, in particular, replacing a system under which new recruits are educated from the age of 13 or 14 in Police High School by a Police Academy running a modern training curriculum. Experts from outside the police force are to be involved in that training programme. At the time of the visit, this process had already begun with a seminar for senior officers on "Managing Human Rights in the Police" held under the auspices of the United Nations Preventive Deployment Force (UNPREDEP).

The CPT welcomes these developments **and trusts that the necessary resources will be made available to ensure that they are pursued with vigour.** The Committee also wishes to stress that, **efforts to improve the training of police officers should not be limited to senior officers and new recruits – they should exist at all levels of the law enforcement hierarchy, and be ongoing.**

20. Furthermore, **the CPT recommends that the relevant national authorities as well as senior police officers make it clear to police officers that the ill-treatment of persons in their custody is not acceptable and will be dealt with severely.**

21. Naturally, one of the most effective means of preventing ill-treatment by police officers lies in the diligent examination of complaints of such treatment and, where appropriate, the imposition of suitable penalties. This will have a very strong dissuasive effect. If necessary, criminal proceedings should be brought against the officers involved.

In this respect, **the CPT would like to receive the following information for the three-year period 1996-1998:**

- **the number of complaints of ill-treatment by the police lodged and the number of disciplinary and/or criminal proceedings initiated as a result of those complaints;**
- **an account of disciplinary/criminal sanctions imposed on the grounds of ill-treatment by the police.**

22. Further, as regards the unlabelled items to which reference was made in paragraph 15, **the CPT recommends that appropriate steps be taken to ensure (i) that all objects to be used as items of evidence are properly labelled and held in a secure location designated for that purpose, and (ii) that non standard-issue items such as those described in paragraph 15 are not held on police premises.**

### **3. Conditions of detention**

23. All police cells should be clean, of a reasonable size for the number of persons they are used to accommodate, and have adequate lighting (i.e. sufficient to read by, sleeping periods excluded) and ventilation; preferably, cells should enjoy access to natural light. Further, cells should be equipped with a means of rest (e.g. a fixed chair or bench), and persons obliged to stay overnight in custody should be provided with a clean mattress and clean blankets.

Persons in police custody should be allowed to comply with the needs of nature in clean and decent conditions, and be offered adequate washing facilities. They should have ready access to drinking water and be given food at appropriate times, including at least one full meal (i.e. something more substantial than a sandwich) every day. Persons held for extended periods (24 hours or more) should be provided with appropriate personal hygiene items and, as far as possible, be offered outdoor exercise every day.

24. All of the cells seen by the CPT's delegation were of a reasonable size for the number of persons which they were intended to accommodate. However, this was virtually the only respect in which they could be said to comply with the criteria outlined in paragraph 23 above. Although most of the cells had adequate artificial lighting, natural light was invariably either dim or totally absent. Particular reference should be made to one of the cells seen at Tetovo Police Station, which had neither access to natural light nor artificial lighting.

Most – but not all – cells were fitted with beds; however, the mattresses provided were often in a condition so filthy as to render them unfit for use. For example, at Gostivar police station, mattresses were found to be soaked in urine; lifting one mattress revealed a pile of excrement and a plastic bag containing more of the same. A used hypodermic needle was found stuck to the underside of another mattress at that establishment. Mattresses and bedding at the Bitola, Tetovo and Prilep police stations were in a comparable state of squalor.

25. Many complaints were heard from persons who had recently been in police custody to the effect that they had not been allowed to use a lavatory despite having been held on police premises for many hours. Although this was denied by police officers with whom the delegation spoke, the delegation's previously-mentioned and other on-the-spot findings in many cells (e.g. plastic bottles containing urine, copious quantities of urine and faecal matter on cell floors and walls) served to convince it of the veracity of these complaints.



26. The delegation also heard many allegations from detainees to the effect that they had received no food - and, sometimes, no drinking water - during extended periods spent in police custody. The periods of custody in question post-dated the entry into force (on 10 March 1998) of the Regulations for the Ministry of the Interior which specify that persons who are detained for longer than 6 hours must be provided with food. One person alleged that he received no food during the entire period of his detention (of up to 48 hours according to him, of exactly 24 hours according to the custody register) at the Gazi Baba (Avtokomanda) police station in Skopje. Another detainee alleged that he had received only a cup of coffee during his detention at the police station in Bitola and that he only received some food immediately before he was taken to court. Further, two detainees stated that, during an extended period of detention at Prilep police station, they had received water twice, but no food.

Police officers interviewed at certain police stations asserted that detainees were fed and described various arrangements for providing food to detainees without resources. Elsewhere, some officers maintained that food would be offered to detainees held for longer than six hours, provided they could pay for it. However, custody records seen contained no reference to the provision of food to detainees and, during its visits to police stations, the delegation found no other evidence of food being provided to detainees.

27. To sum up, the vast majority of cells seen had inadequate lighting, unusable bedding and were in a generally filthy condition. Moreover, credible allegations suggested that many persons detained by the police were not granted access to sanitary facilities or given food. As regards, more particularly, the completely unlit cell seen at Tetovo Police Station, the Committee must stress that **to hold a person in a dark cell, for any length of time whatsoever, is unacceptable.**

**The CPT recommends that urgent measures be taken to rectify the shortcomings observed by its delegation in the police establishments visited. More generally, it recommends that steps be taken to ensure that conditions of detention in all police establishments fully comply with the criteria set out in paragraph 23.**

As regards, more particularly, the provision of food to persons in police custody in “the former Yugoslav Republic of Macedonia”, **the Committee recommends that the relevant authorities ensure that police officers are made aware that they are obliged to comply with the terms of Section 37 of the Regulations for the Ministry of the Interior, regardless of the financial means of a given detainee. Budgetary means should be set aside to defray the cost of providing food to those unable to pay for it.**

#### **4. Safeguards against the ill-treatment of detained persons**

##### a. introduction

28. The CPT attaches particular importance to three rights for persons deprived of their liberty by the police:

- the right of those concerned to inform a close relative or another third party of their choice of their situation,
- the right of access to a lawyer,
- the right of access to a doctor.

The CPT considers that these three rights are fundamental safeguards against the ill-treatment of persons deprived of their liberty, which should apply from the very outset of custody (that is, from the moment when the persons concerned are obliged to remain with the police).

29. Furthermore, in the view of the CPT, persons taken into police custody should be expressly informed, without delay and in a language they understand, of all their rights, including those referred to above.

##### b. notification of custody

30. As already indicated, persons who are obliged to remain with the police should have the right to inform immediately a close relative or third party of that fact.

Section 3 of the Code of Criminal Procedure foresees such a right. In addition, the Law on Internal Affairs provides that the “authorised person” (i.e. a police officer) must, “if circumstances allow,” notify the family of the detained person within three hours of deprivation of liberty (section 29). Further, the form called “Official Note on Holding a Person”<sup>5</sup> requires police officers to indicate whether or not the “family or employer” of a detained person have been informed and, if so, the date and time at which this occurred.

The CPT welcomes the fact that, at least in principle, persons held by the police have the right to notify a third party of that fact. In practice, a number of detainees alleged that their families had not been notified, unless the arrest had taken place in the presence of family members (e.g. at a detained person’s residence). It should be added that, at a number of police stations visited, the delegation found that the relevant section of the above-mentioned form had, more often than not, been left completely blank.

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<sup>5</sup> Form no.12, issued in terms of the Regulations for the Ministry of the Interior.

31. The effectiveness in practice of the right to notify another person of one's custody will depend largely upon detained persons being duly informed that such a possibility exists (on which, cf. paragraphs 40 and 41, below). It is also essential that the fact that a person has been informed of this right be recorded in an appropriate fashion (on which, cf. paragraphs 43 to 45, below). In the light of these considerations, and having regard to its delegation's findings, **the CPT recommends that the authorities of "the former Yugoslav Republic of Macedonia" take appropriate action to ensure that the right to notify a close relative or third party of the fact of one's detention is rendered fully effective in practice.**

32. The CPT accepts entirely that the exercise of the right to notify a third party of one's detention could be subject to certain exceptions, designed to protect the interests of justice. However, any possibility exceptionally to delay the exercise of this right should be clearly circumscribed, made subject to appropriate safeguards (e.g. any such delay to be recorded in writing together with the reasons therefor and to require the approval of a senior police officer or public prosecutor) and strictly limited in time.

In this connection, the CPT considers that the notion of "if circumstances so allow" as used in Section 29 of the Law on Internal Affairs is insufficiently precise. **The Committee recommends that the circumstances under which the right to notify someone of the fact of one's custody can be delayed be more closely defined and that the safeguards identified above be introduced.**

c. access to a lawyer

33. In the CPT's experience, the period immediately following deprivation of liberty is when the risk of intimidation and ill-treatment is greatest. Consequently, the possibility for persons taken into police custody to have access to a lawyer during that period is a fundamental safeguard against ill-treatment. The existence of that possibility will have a dissuasive effect on those minded to ill-treat detained persons; moreover, a lawyer is well placed to take appropriate action if ill-treatment actually occurs.

Article 12 of the Constitution provides that "a person summoned, apprehended or deprived of his liberty ... has the right to a lawyer in police and court procedure"<sup>6</sup>. This provision is developed in Section 63 (1) of the Code of Criminal Procedure which specifies that "every person has a right to a defence lawyer in pre-criminal and court procedure". According to Section 63 (2), "before the first interrogation, the suspect in pre-criminal procedure and an accused person must be informed that they have the right to a defence lawyer of their choice, and that the defence lawyer may be present at the interrogation." Further clarification is provided by Section 188 (5) of the Code of Criminal Procedure and Section 44 of the Regulations for the Ministry of the Interior, which specify that, if a person held<sup>7</sup> by the police requests the assistance of a defence lawyer, the police shall delay all proceedings - for a maximum of two hours from the moment when the person held was given the opportunity to inform the lawyer - until the defence lawyer arrives.

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<sup>6</sup> It might be noted, in this respect, that persons summoned for "informative talks" (cf. paragraph 9) by the police are informed in writing of their right to have access to a lawyer.

<sup>7</sup> Under section 188(3) of the Code of Criminal Procedure (cf. paragraph 8).

34. However, the delegation met many persons who were or recently had been in police custody who claimed that they had not been offered the opportunity to contact a lawyer. For their part, police officers stated that the persons concerned had been placed in a position to exercise this right, but had waived it. The delegation was unable to pursue this issue further as, in most cases, the relevant portion of the above-mentioned form no. 12 (which indicated whether or not a detained person wished to have access to a lawyer) had not been completed by police officers.

35. The formal legal position of persons arrested by the police regarding access to a lawyer is favourable; however, in practice, it appears to be rare for persons in police custody to have any contact with a lawyer.

Undoubtedly there will always be a certain number of detained persons who decline to exercise their right to have access to a lawyer. Nevertheless, the fact that such a significant number of detained persons are apparently waiving this right, taken together with the lacunae in record-keeping on this subject, tends to suggest that the procedures currently being applied may not be entirely appropriate.

**The CPT recommends that action be taken to ensure that the right of access to a lawyer is rendered fully effective in practice.**

36. As regards the content of the right of access to a lawyer, it must include the right to talk to him in private. The person concerned should also, in principle, be entitled to have a lawyer present during any interrogation conducted by the police (whether this be during or after the initial period of police custody). Naturally, this should not prevent the police from questioning a detained person on urgent matters, even in the absence of a lawyer, nor rule out the replacement of a lawyer who impedes the proper conduct of an interrogation; however, the latter possibility should be strictly circumscribed by appropriate safeguards.

**The CPT recommends that the precise content of the right of access to a lawyer be reviewed in the light of these remarks.**

37. Finally, it is axiomatic that the effective enjoyment of the right of access to a lawyer during police custody will require the existence of a system of legal advice and assistance for those who are not in a position to pay for legal services. **The CPT would like to be informed of how this matter is regulated in “the former Yugoslav Republic of Macedonia”.**

d. access to a doctor

38. Persons in police custody should have the right of access to a doctor including, if they so wish, to a doctor of their own choice (in addition to any medical examination carried out by a doctor called by the police authorities).

39. There is currently no statutory or regulatory provision in “the former Yugoslav Republic of Macedonia” governing access to a doctor in police custody. Certain larger district police stations employed a doctor or a nurse to attend to the health care needs of staff; the delegation was told that “when needed” they would provide medical assistance to detained persons as well. In other cases, recourse could be had to external medical emergency services. However, the fact that a person detained had been seen by a doctor was not recorded in custody registers at the establishments visited, nor – according to certain doctors interviewed by the delegation – in the external medical emergency services to which detained persons might be taken.

**The CPT recommends that the right of persons in police custody to have access to a doctor, including – if they so wish – to a doctor of their own choice, be formally guaranteed. The relevant provisions should stipulate that:**

- **all medical examinations should be conducted out of the hearing and – unless the doctor requests otherwise in a given case – out of the sight of police officers;**
- **the results of every examination, as well as any relevant statements by the detained person and the doctor’s conclusions, should be formally recorded by the doctor and made available to the detained person and his lawyer.**

e. information on rights

40. Persons taken into police custody should be expressly informed without delay of all their rights, in an understandable manner.

The police are required by laws and regulations to provide information on specific rights to persons in their custody, immediately after their apprehension. Specifically, Article 12 of the Constitution provides *inter alia* that persons summoned, apprehended, or deprived of liberty must be immediately informed of their legal rights. Read together, sections 3(1) and 3(2) of the Code of Criminal Procedure provide that the rights concerned include the right to consult with a lawyer, to have a lawyer of one’s own choice present during questioning, as well as to inform a third party of the fact of one’s detention. Section 3(1) specifies that such information must be delivered in a language understood by the person concerned. Similar provisions are to be found in Section 29 of the Law on Internal Affairs and Section 30 of the Regulations of the Ministry of the Interior.

41. The Constitution, laws and regulations establish a framework which, if rigorously applied, should ensure that detained persons are aware of their legal rights while in police custody. However, many detained persons interviewed by the delegation alleged that they had received no such information.

In order to ensure that persons detained by the police are fully informed of their rights, **the CPT recommends that a form setting out those rights in a straightforward manner be given systematically to such persons, at the very outset of their custody. The form should be comprehensible to the person concerned and he should be asked to certify that he has been informed of his rights.**

f. conduct of interrogations

42. The CPT considers that clear rules or guidelines should exist on the way in which police interviews are to be conducted. The existence of such rules or guidelines will, inter alia, help to underpin the lessons taught during police training.

In addition to reiterating the total prohibition of ill-treatment, they should address inter alia the following matters: the systematic informing of the detained person of the identity (name and/or number) of those present at the interview; rest periods between interviews and breaks during an interview; places in which interviews may take place; whether the person detained may be required to remain standing while being questioned; the questioning of persons who are under the influence of drugs, alcohol or medicine, or who are in a state of shock. It should also be stipulated that a systematic record be kept of the times at which interviews start and end, the persons present during each interview and any request made by the detainee during the interview. The position of especially vulnerable persons (for example, the young, those who are mentally disabled or mentally ill) should be subject to specific safeguards.

**The CPT recommends that a code of conduct for police interviews be drawn up, in the light of the above remarks.**

g. custody registers

43. The CPT considers that the fundamental safeguards offered to persons in police custody would be reinforced if a single and comprehensive custody record were to be kept for each person detained, in which would be recorded all aspects of his custody and all the action taken in connection with it (time and reason(s) for the detention; when informed of rights; signs of injury, mental disorder, etc.; contact with and/or visits by a relative, lawyer, doctor or consular officer; when offered food; when questioned; when brought before a judge; when released, etc.).

44. The recently-adopted Regulations for the Ministry of the Interior provide blueprints for forms which are to be used to record various actions related to the deprivation of liberty. In particular, there are two forms to be completed in connection with the holding of a person: a register (form no.11) and an official note (form no.12). The latter form has the purpose of recording the times and dates when the holding of a particular person began and ended, as well as indicating whether the person had a lawyer and whether any third parties were notified.

45. During the visit, the CPT's delegation discovered that a proliferation of records and registers were in use in police establishments. In most cases, these records were completed by clerical staff rather than by serving police officers and the data which they contained was often incomplete, inaccurate and/or mutually contradictory. For example, the places on form no.12 which were intended for indicating whether a detained person had had a lawyer present and whether third-party notification had taken place were often left blank. Elsewhere, there were conflicting notations in "daily logbooks" and "registers of held persons" as regards the beginning and end times of holding. Most worryingly, at Kumanovo police station, the delegation established that a person had been held in police custody without a formal record being kept of that fact.

**The CPT recommends that steps be taken to ensure that whenever a person is detained in a police establishment, for whatever reason or length of time, the fact of his detention is recorded without delay. Further, it invites the relevant authorities to explore the possibility of maintaining a single, comprehensive custody record for every person detained, in accordance with the criteria outlined above (cf. paragraph 43).**

h. independent inspections

46. Systems for the inspection of police detention facilities by an independent authority are capable of making an important contribution towards the prevention of ill-treatment of persons held by the police and, more generally, of ensuring satisfactory conditions of detention. To be fully effective, the visits by such an authority should be both regular and unannounced, and the authority concerned must be empowered to discuss in private with detained persons.

**The CPT invites the authorities of "the former Yugoslav Republic of Macedonia" to consider introducing such a system of inspections of police establishments.**

**B. Establishments under the authority of the Ministry of Justice**

**1. Preliminary remarks**

47. The delegation visited Idrizovo Prison (including the small Closed Unit at the State Hospital in Skopje, which falls under the authority of that establishment), and Tetovo Educational-Correctional Institution.

As already indicated, it also went to the remand sections of Skopje and Bitola Prisons in order to interview a number of prisoners who had recently been held in police custody.

**48. Idrizovo Prison**, which is the largest prison in “the former Yugoslav Republic of Macedonia”, is set on a site of 180 hectares of arable land, more than half of which is used for farming or light industry. The prison includes open, semi-open and closed sections for men and a closed section for women prisoners. In addition, it accommodates male minors sentenced to “juvenile prison”, as well as women and girls who are sentenced to prison or juvenile prison.

Built to serve the whole of the former Yugoslavia as a maximum security prison, at one time it accommodated up to 2000 inmates. On 15 May 1998, the establishment had an official capacity of 900 (850 men and 50 women) and was holding 624 sentenced inmates (604 men and 20 women), of whom 17 were minors (i.e. aged under 18).

**49. Tetovo Educational-Correctional Institution** consists of six purpose-built octagonal accommodation units, set in pleasant landscaped grounds on a hillside, and a further “closed” unit (used to segregate escapees and drug addicts) located within the main administrative building. The establishment receives young males, aged from 14 to 23, who have been placed there on the orders of a court in order to continue their education, receive vocational training and acquire positive life skills. On 15 May 1998, it had a capacity of 96 and was accommodating 34 “residents” (a further 9 young males being absent from the premises for a variety of reasons).



## **2. Torture and other forms of ill-treatment**

50. The CPT's delegation heard no allegations of torture or other forms of deliberate ill-treatment - and gathered no other evidence of such treatment - of inmates by staff in the establishments visited or in other establishments under the authority of the Ministry of Justice.

Nevertheless, the CPT wishes to draw attention to two practices observed by its delegation at the **Tetovo Educational-Correctional Institution**. The first was the shaving of the heads of newly-arrived residents and of those who had been returned to the institution after escapes. Senior staff at that establishment accepted that such a procedure has no medical justification and could be considered degrading. The second was the open carrying of batons by staff who came into direct contact with the minors. Such a practice is not conducive to fostering positive relations between staff and residents.

**The CPT recommends that the authorities of “the former Yugoslav Republic of Macedonia” put an end to these practices.**

51. In addition, in order to gain a nationwide picture, **the CPT would like to receive the following information for the three-year period 1996-1998:**

- **the number of complaints lodged of ill-treatment by custodial staff in establishments under the authority of the Ministry of Justice and the number of disciplinary and/or criminal proceedings initiated as a result of those complaints;**
- **an account of disciplinary/criminal sanctions imposed on the grounds of ill-treatment by custodial staff.**

## **3. Conditions of detention**

- a. material conditions

52. Physical conditions varied greatly in the areas used for prisoner accommodation at **Idrizovo Prison**. The women's section, a relatively modern single-storey building, was found to be in the best state of repair. Living accommodation was located around a courtyard, with the dormitories arranged so as to avoid an unduly carceral aspect. Occupancy levels (one inmate in some 9 m<sup>2</sup>, two in around 15 m<sup>2</sup> and three prisoners per 25 m<sup>2</sup> dormitory) were entirely satisfactory. The rooms had good access to natural light, artificial lighting and ventilation and, in addition to beds, they were equipped with a table and chairs and lockable cupboards. The use of pleasant furnishings, curtains, bedspreads and wall decorations afforded them a personalised appearance.

The communal areas in the women's section were of a similarly satisfactory standard. In particular, the bathing and toilet facilities were in a very good state of repair and hygiene.

53. Newly-arrived male prisoners spent their first month in a distinct reception section, containing four dormitories, which measured between 20 and 36 m<sup>2</sup>. These rooms provided cramped conditions (e.g. 15 prisoners in 32 m<sup>2</sup>) and, being furnished only with bunk beds, had a rather spartan appearance. The section as a whole was in a poor state of repair. Further, in certain dormitories, access to natural light was rather limited, adding to the generally lugubrious, dilapidated aspect of the unit.

After the reception period, male prisoners were allocated to a closed, semi-open or open unit within the establishment.

54. The closed section of the prison had the form of a panopticon, comprising three wings, each of three levels. Prisoner accommodation consisted once again of dormitories; however, unlike the reception section, occupancy rates were on the whole acceptable (e.g. 10 inmates in 60 m<sup>2</sup>). Certain areas of this section had been refurbished (by the prisoners themselves) to a reasonably high standard. For example, in Wing B4, the walls of the well-ventilated, bright dormitories had been freshly whitewashed and the bedding appeared to be clean and new. Further, the lavatories and washing facilities were cleaner than those in the other wings. Nevertheless, some prisoners from this wing characterised these changes as “cosmetic”, and showed the delegation the old, dirty mattresses which lay beneath the clean bedding.

Wing B5 in the closed section provided a stark contrast of rotting, darkened beams, damp walls with peeling paint, broken furniture and windows, and lavatories and shower facilities flooded with stagnant liquid and in a generally woeful state of repair and hygiene.

Shortcomings were also observed in the establishment’s semi-open and open units, in particular as regards the physical fabric of the buildings, the quality of sanitary facilities and the general state of hygiene.

55. Although the premises of the **Tetovo Educational-Correctional Institution** were relatively modern, they were also found to be in a state of some dilapidation.

Two of the octagonal accommodation units were out of service at the time of the visit. In those which remained in use, residents lived two or three to rooms measuring around 13 m<sup>2</sup>, equipped with beds, a table and chairs. Each room also had a tiled annex which had once contained a washbasin and now served as storage space. Residents’ rooms and association areas were light and airy, and benefitted from good natural light, artificial lighting and ventilation. In short, the units concerned had the potential to provide very good conditions of detention. However, a lack of regular maintenance had taken its toll upon the buildings. This was especially apparent as regards the sanitary facilities; many lavatories and wash basins were out of service and those which were being used were without exception in an unhygienic condition.

Conditions were poorer in the establishment’s “closed section” (cf. paragraph 49). Persons held there were being accommodated in cramped conditions (e.g. up to 5 residents in 18 m<sup>2</sup>) and, due to the security grilles which had been fitted to the windows, natural light was deficient.

b. regime

56. At the time of the visit, 205 male prisoners at **Idrizovo Prison** from the closed and semi-open sections worked an eight-hour day in a variety of semi-industrial settings and in general services (woodworking, metalwork, building work, car repairs, the production of cement blocks, kitchen, bakery, laundry, barber's shop, canteen, warehouse, central heating maintenance and gardening). Further, all of the 124 men held in the open section were employed in farming and service tasks (dining halls, canteen and motor maintenance). Whilst it is impressive that prisoners at Idrizovo were being offered such a wide range of work activities (including many of a vocational nature), it also remains true that more than half of the male inmates being held in the closed and semi-open units were not in employment.

As regards other regime activities, a total of some 270 prisoners participated in sports and games (football, table tennis, basketball and chess), which took place during daily two to three-hour exercise periods.

Only a limited number of inmates (approximately 40) took part in educational activities, and some 50 participated in music, theatre and literature clubs.

57. Regime activities for women prisoners were more restricted, falling distinctly short of those which a sentenced prisoner is entitled to expect. Work activities were of a limited nature, amounting to little more than carrying out domestic chores within their units (cleaning, laundry and cooking) and the workplaces were insufficient in number. As far as the delegation could ascertain, they were offered no other purposeful regime activities.

58. The majority of residents at **Tetovo Educational-Correctional Institute**, had been allocated vocational training places (including in carpentry, construction work, painting and upholstery); however, certain of the workshops to which they had been allocated appeared to be under-used or out-of-service.

Although the establishment is formally committed to providing elementary education for all residents (and the majority of its residents had not completed their schooling at that level), it appeared that at the time of the visit, only a few of them were attending classes. Participation in secondary-level education was also very limited (only one resident was attending an outside secondary school in Tetovo). Further, the quality of the activities which could be delivered to residents was impaired by the very limited equipment available for vocational training, education and sports.

One particular group of residents - those held in the closed unit (also known as the "special section for increased educational influence") - were subject to a more impoverished regime. The few activities (e.g. discussion groups on substance abuse) which were offered to them took place within the unit itself, residents leaving its confines only for two hours per day of outdoor exercise.

c. assessment

59. The CPT's visits to Idrizovo Prison and Tetovo Educational-Correctional Institution revealed a number of positive and promising features. Both establishments are, in principle, equipped with the basic infrastructure required to provide decent conditions of detention for those whom they hold. Moreover, management and staff clearly aspired to provide inmates with meaningful regimes.

60. Nevertheless, as the authorities of "the former Yugoslav Republic of Macedonia" are aware, the physical fabric of most parts of both establishments has been allowed to deteriorate to such a point as to impinge seriously upon both the quality of life of persons deprived of their liberty and the working conditions of staff. This was most acutely apparent as regards the state of the sanitary facilities, lavatories and showers (which must - in comparatively recent times - have been more than adequate) having fallen into disrepair, squalor and eventual desuetude.

In this context, the CPT wishes to stress that the standard of accommodation is central to the quality of life within a place of detention. More particularly, cells should offer sufficient living space for the inmates they are used to accommodate, should benefit from good access to natural light and ventilation, and should be equipped with adequate artificial lighting and heating. Sanitary arrangements should permit inmates to comply with the needs of nature when necessary in clean and decent conditions. It is desirable for running water to be available within cellular accommodation, and inmates should have adequate access to hygienic shower or bathing facilities. Cells should be suitably furnished (bed, table, chair/stool, storage space), all facilities/equipment should be in a good state of repair, and inmates should be placed in a position to keep their accommodation in an adequate state of cleanliness.

61. The CPT finds much to praise in the efforts being made to provide programmes of meaningful regime activities for prisoners at Idrizovo Prison and residents at the Tetovo Educational-Correctional Institution. However, its delegation's findings revealed a clear gap between the aspirations of management and staff and the programmes of activities which were actually being delivered to inmates.

62. The CPT considers that the aim should be to ensure that all prisoners spend a reasonable part of the day (i.e. 8 hours or more) outside their cells engaged in purposeful activities of a varied nature: work, preferably with vocational value, education, sport, recreation/association.

Young persons should be offered a full programme of educational, recreational and other purposeful activities; physical education should constitute an important part of that programme. Further, the programme should be implemented by persons trained in dealing with the young.

**63. The CPT recommends that the authorities of "the former Yugoslav Republic of Macedonia take all necessary steps – and explore all available channels – with a view to improving material conditions and regime activities in Idrizovo Prison and Tetovo Educational-Correctional Institute (and, if necessary, in other establishments where similar conditions obtain), having regard to the remarks set out in paragraphs 52 to 62.**

#### 4. Medical services

64. A prison health care service should be able to provide medical treatment and nursing care, as well as appropriate diets, physiotherapy, rehabilitation or any other necessary special facility, in conditions comparable to those enjoyed by patients in the outside community. Provision in terms of medical, nursing and technical staff, as well as premises, installations and equipment should be geared accordingly.

There should be appropriate supervision of the pharmacy and of the distribution of medicines. Further, the preparation of medicines should always be entrusted to qualified staff (pharmacist/nurse, etc.).

65. The health care staff at **Idrizovo Prison** consisted of a doctor, a dentist, a nurse and two medical technicians, all of whom worked from 7 am to 3 pm on weekdays. The doctor was also available for telephone consultations outside working hours. In addition, an ophthalmologist provided consultations at the prison on a periodic basis.

In the event of an emergency requiring medical assistance outside the doctor's working hours, inmates were taken to the Closed Unit of the State Hospital in Skopje, which operates under the authority of the prison. The Unit also receives prisoners from Idrizovo who - in the opinion of the doctor at Idrizovo Prison - require diagnosis or treatment from a specialist, as well as remand prisoners (mainly from Skopje, Tetovo, Štip and Kriva Palanka). The unit was staffed on weekdays from 7 am to 3 pm by a medical technician (reporting to the Idrizovo Prison doctor). Prison officers from Idrizovo worked shifts to ensure a continuous presence of one prison officer at the unit. In addition, a sentenced prisoner was employed in an auxiliary capacity.

66. The existing staff resources of the health-care team at Idrizovo Prison are manifestly insufficient for an establishment accommodating more than 600 sentenced inmates. As a result, in both the prison itself and in the closed unit at the State Hospital in Skopje, inmates were engaged in tasks which are properly those of a nurse, such as the distribution of medication and the provision of first aid. Staff shortages also compromised medical confidentiality, in that inmates – and certain custodial staff – had ready access to prisoners' medical files.

#### **The CPT recommends that:**

- **staffing levels in the health care team at Idrizovo Prison be significantly augmented, in particular as regards nursing cover. It would also be desirable for the establishment to secure the services of at least the equivalent of an additional, half-time, doctor;**
- **measures be introduced to guarantee that medical confidentiality is strictly respected.**

67. The CPT was also concerned to learn that no in-house psychiatric care had been available at Idrizovo Prison since 1995, and that prisoners requiring such care had to be transferred to the forensic section of the Bardovci Psychiatric Hospital near Skopje.

All prisons from time to time accommodate a certain number of prisoners who, while not requiring admission to a psychiatric facility, could benefit from ambulatory psychiatric or psychological care. Consequently, **the CPT recommends that a visiting psychologist/psychiatric service be introduced at Idrizovo Prison.**

68. Idrizovo Prison's health care facilities also left something to be desired. The establishment's clinic had been destroyed in a fire in 1995 and, at the time of the visit, a "temporary" 30-bed clinic was in operation. This was a distinctly dilapidated facility, the state of repair and hygiene of the dormitories and sanitary facilities being particularly poor. Similar shortcomings were observed at the Closed Unit at the State Hospital in Skopje, although some renovation work was taking place.

**The CPT recommends that the health care facilities at Idrizovo Prison be upgraded and, in this respect, would like to receive further details of the renovation work being carried out at the Closed Unit of the State Hospital in Skopje.**

69. By contrast, the health care service at **Tetovo Educational-Correctional Institution** appeared to be of a reasonable standard, in terms of both staff and facilities. A full-time doctor provided a range of general medical services, and could arrange for outside consultations with specialists. The establishment's small infirmary, although sparsely furnished, was clean and adequately equipped.

Further, a team of four psychologists worked at the Institution and psychiatric consultations could be arranged. The psychologists interviewed by the delegation considered that residents were receiving adequate psychological/psychiatric support, and no complaints were heard from residents on this subject.

## 5. Other issues

### a. staffing issues

70. The best possible guarantee against the ill-treatment of prisoners is properly recruited and trained prison officers, who know how to adopt the appropriate attitude in their relations with inmates.

In the course of the visit, custodial staff at both **Idrizovo Prison** and **Tetovo Educational-Correctional Institution** indicated to the delegation that they considered that the training they had received had not fully equipped them to deal with the more difficult interpersonal situations which they encountered in the course of their daily work. Further, the CPT has noted that the current syllabus for prison officer training makes no explicit reference to the importance of prison officers developing appropriate interpersonal communication skills.

**The Committee recommends that an aptitude for interpersonal communication be a major factor in the process of recruiting prison officers and that, during the induction and in-service training of such officers, considerable emphasis be placed on acquiring and developing interpersonal communication skills. Building positive relations with prisoners should be recognised as a key feature of a prison officer's vocation.**

71. Of course, however well-trained prison staff may be, it is essential that they be sufficient in number and deployed in a manner which enables them effectively to exercise control in the establishments of which they have charge.

In this respect, a number of the prison officers with whom the CPT's delegation spoke at **Idrizovo Prison** indicated that they considered that an insufficient number of custodial staff were deployed to core tasks, including the day-to-day supervision of inmates. In consequence, they felt that, on occasion, their own security was compromised and doubted whether they were always in a position effectively to protect inmates from other prisoners who might wish to cause them harm.

The Committee is conscious that to address this problem may well require a substantial investment in terms of staff resources. However, the current situation at Idrizovo Prison may be being exacerbated by the fact that – at present – custodial staff are working shifts of 24 hours on, followed by 72 hours off. Quite apart from the questionable personal effectiveness of any member of staff nearing the end of a 24-hour shift, such a shift pattern is operationally inefficient. The adoption of shorter shifts could enable a significant proportion of existing staff to be re-deployed to areas which may currently be affected by understaffing.

72. The CPT invites the authorities of “the former Yugoslav Republic of Macedonia” to conduct a review of current staffing arrangements at Idrizovo Prison with a view to ensuring that:

- the number of prison officers employed is sufficient to ensure staff safety and the physical and mental integrity of inmates;
- the current complement of custodial staff are being deployed in the most operationally-efficient manner.

b. contact with the outside world

73. It is very important for prisoners to be able to maintain good contact with the outside world. Above all, they must be given the opportunity to safeguard their relations with their family and friends, and especially with their spouse or partner and their children. The continuation of such relations can be of critical importance for all concerned, particularly in the context of prisoners’ social rehabilitation. The guiding principle should be to promote contact with the outside world; any restrictions on such contacts should be based exclusively on security concerns of an appreciable nature or considerations linked to available resources. This is in line with a number of recommendations in the 1987 European Prison Rules, particularly Rule 43, sub-paragraph 1 and Rule 65, point c.

74. In terms of Article 142 of the Law on the Execution of Sanctions (LES), sentenced prisoners “have the right to receive visits from members of their close family and, at the discretion of the institution’s director, may also receive visits from other persons”. Article 146 further specifies that visits may last up to 60 minutes, however, the “timing, manner and length” of a visit are to be determined by an institution’s house rules. In this respect, the house rules for **Idrizovo Prison** state that visits are to take place on Sundays from 8 am to 2 pm and, at the director’s discretion, on other days.

The delegation found that, in practice, all prisoners were entitled to a one-hour supervised visit once a month. In addition, as a reward for good behaviour, prisoners could be – and indeed, in certain cases, were being – granted “free visits” (i.e. unsupervised visits from their spouses of up to 2 hours once a month) and, at the director’s discretion and in accordance with the relevant provisions of the LES, home leave.

75. In the view of the CPT, the basic visiting entitlement for sentenced prisoners of one hour per month is scarcely sufficient to enable them to maintain their relations with their families. **The Committee invites the authorities of “the former Yugoslav Republic of Macedonia” to strive to increase the number of visits for convicted prisoners. Further, the formal visiting entitlement for such prisoners should, in due course, be revised.**

76. The CPT’s delegation was pleased to note that the material conditions in which visits took place were of a good standard; the visiting room was large, well-ventilated, bright and smoke-free. Further, coffee and snacks were available for purchase during visiting times and visitors could bring parcels of food.



77. Article 141 of the LES provides that sentenced prisoners may be allowed to make telephone calls (in the case of prisoners held in closed conditions, subject to staff supervision). At the time of the delegation's visit, there were only two card-operated telephones available for the use of all prisoners at Idrizovo Prison. However, the delegation was informed that there were plans to install additional telephones. The CPT would welcome such a development and **would like to be informed of any progress which has been made in this respect.**

78. Residents at the **Tetovo Educational-Correctional Institution** were allowed to receive an unlimited number of visits. Further, each resident was entitled to send letters and to make one weekly telephone call at the expense of the institution. Fortnightly visits into town were granted as a privilege, as were home visits every other month.

These entitlements may be qualified as satisfactory, having regard to the particular needs of young persons deprived of their liberty.

c. discipline

79. Apart from warnings, restrictions of privileges and the confiscation of a percentage of a prisoner's wages, Article 172 of the LES provides for the imposition of up to 15 days of solitary confinement for offences against prison discipline. Disciplinary measures may not be imposed without "proceedings" in the course of which the inmate has the opportunity to present a statement.

The LES also specifies that prisoners undergoing the disciplinary sanction of solitary confinement must, inter alia, have access to books and newspapers, and be offered one hour of outdoor exercise every day (cf. Article 175).

80. At **Idrizovo Prison**, disciplinary proceedings were initiated by guards and re-educators (supervisors) via a written proposal to the prison governor, who would decide whether grounds existed to impose a particular disciplinary measure. The disciplinary sanction of solitary confinement had not been imposed with excessive frequency.

The cells used for solitary confinement of male prisoners were on the uppermost (third) floor of the closed section of Idrizovo. They were of an adequate size (7 to 8 m<sup>2</sup> for single-occupancy), reasonably clean and had good access to natural light and ventilation. Further, the lavatories and washing facilities used by prisoners in solitary confinement were of an acceptable standard. It should also be noted that a call bell system was being installed at the time of the visit. The only serious deficiency was the absence of a heating system. **The CPT recommends that the cells used for solitary confinement at Idrizovo be fitted with heating and would like to receive confirmation that the call bell system in those cells is now in operation.**

The isolation room in the women's section in Idrizovo was equipped to a similarly high standard as the other dormitories in that section.

81. With certain specific exceptions (e.g. as regards the maximum length of time for which solitary confinement may be imposed), the general framework for the imposition of disciplinary penalties outlined in the LES also applies to educational-correctional institutions.

At **Tetovo Educational-Correctional Institution**, solitary confinement as a disciplinary punishment could be imposed for periods of up to 7 days on the orders of the director of the establishment. The procedures governing the imposition of this sanction are set out in detail in instructions issued by the director on 20 February 1998 (under sections 172 to 179 and 320 to 321 of the LES). Those instructions provide, *inter alia*, that residents must be heard before the disciplinary sanction of solitary confinement is imposed, be given a copy of the director's decision in writing, and have a right to complain about the director's decision to the Head of the Prison Service within 3 days (although this does not have suspensive effect).

The instructions further provide that residents undergoing the disciplinary sanction of solitary confinement shall receive books and newspapers, and be offered one hour of outdoor exercise every day.

The material conditions in which residents served the disciplinary sanction of solitary confinement were satisfactory (i.e. adequately-lit and ventilated cells of some 8 m<sup>2</sup>, equipped with a sanitary annex containing a lavatory and wash basin).

d. complaints and inspection procedures

82. Effective complaints and inspection procedures are basic safeguards against ill-treatment. Inmates should have both internal and external avenues of complaint open to them, and be entitled to confidential access to an appropriate authority.

83. Complaints procedures at **Idrizovo Prison** were conducted in accordance with the relevant provisions of the Law on the Execution of Sanctions.

Article 165 of the LES provides that prisoners have the right to complain to the establishment's director in writing within a period of 8 days of the event complained of (or of first learning of the event complained of). The director is obliged to issue a decision within 15 days of receiving the complaint (Article 166, LES), prisoners having eight days from the date of the director's decision to appeal to the Directorate of Prisons. In turn, the Directorate is obliged to pronounce upon complaints received within 30 days, failing which the matter is open to review by a court (Article 167, LES). Further, explicit provision is made for prisoners to submit complaints to the European Court of Human Rights (Article 170, LES). Prisoners may also submit complaints about the manner in which they have been treated to the recently-created Office of the Ombudsman, although the Committee understands that, as yet, few inmates have availed themselves of this opportunity.

The CPT welcomes the existence of these formal complaints procedures. However, **the Committee would like to receive confirmation that prisoners have confidential access to the European Court of Human Rights and to the Ombudsman. Further, the Committee invites the authorities of "the former Yugoslav Republic of Macedonia" to make provision for prisoners to be able to correspond on a confidential basis with the President of the CPT.**

84. At **Tetovo Educational-Correctional Institution**, the delegation was shown a register designed to record residents' complaints. However, it was surprised to note that, at least in recent times, no complaints whatsoever had been recorded. A complete absence of recorded complaints in a place of detention may evince a high degree of satisfaction amongst inmates. On the other hand, it may provide an indication that, for whatever reason, inmates lack confidence in the complaints procedures concerned.

**The CPT invites the relevant authorities to review the operation of complaints procedures at Tetovo Educational-Correctional Institution. It would also like to be informed of whether complaints procedures in educational-correctional institutions are the subject of any formal legal provisions.**

85. The CPT attaches particular importance to regular visits to prison establishments by an independent body (for example, a visiting committee or a judge with responsibility for carrying out inspections), with authority to receive – and, if necessary, take action on – prisoners' complaints and to visit all of the prison premises (including the disciplinary facilities). During such visits, the persons concerned should make themselves “visible” to both the prison authorities and staff and the prisoners. They should not limit their activities to seeing prisoners who have expressly requested to meet them, but should take the initiative by visiting the establishments' detention areas and entering into contact with inmates.

Chapter VIII of the LES outlines a detailed framework for the internal and external supervision of prisons. The Republic's Inspector of Prisons is authorised to inspect prison establishments with a view to identifying and rectifying possible problems. In addition, the local court judge assigned to each establishment is accorded powers to call for people and papers and to talk with prisoners in private. Even more extensive powers are granted to a body to be known as the State Commission for the Supervision of Prisons which, at the time of the visit, had yet to be established. The State Commission is to be a multi-disciplinary body of independent experts which shall visit each prison at least twice a year. During such visits, the Commission may examine the material conditions and records in the establishment, as well as conduct private interviews with prisoners. The Commission's findings are to be transmitted to the Government, the Directorate of Prisons and to the competent local court. The LES specifies that the Directorate of Prisons and individual institutions shall be obliged to implement recommendations made by the Commission.

If rendered fully effective in practice, the different inspection systems foreseen by the LES are capable of making a significant contribution to the prevention of ill-treatment. **The CPT recommends that a very high priority be given to establishing the State Commission for the Supervision of Prisons. Further, the Committee requests that the remarks made in the first sub-paragraph of this paragraph be brought to the attention of all inspectorial authorities.**

86. Of course, it is also very important that establishments such as the **Tetovo Educational-Correctional Institution** be regularly visited by an appropriate independent body. **The CPT would like to be informed of the approach adopted to this question in “the former Yugoslav Republic of Macedonia”.**

## **C. The forensic psychiatric section at Demir Hisar Psychiatric Hospital**

### **1. Preliminary remarks**

87. Established in 1952, the 550-bed Demir Hisar Psychiatric Hospital, which is the oldest such establishment in “the former Yugoslav Republic of Macedonia”, is located in an impressive natural setting surrounded by mountains. In the course of its visit, the CPT’s delegation focused its attention upon the hospital’s forensic psychiatric section which, since 1975, has been located in a separate two-storey building on a hillock overlooking the hospital complex.

The 46 male patients accommodated in the forensic psychiatric section at the time of the visit were a heterogeneous group, including persons suffering from alcohol and drug addiction, epilepsy, mental retardation and a variety of psychiatric disorders. Having been convicted of crimes, all had been placed in the forensic psychiatric section pursuant to Chapter 19 of the Law on the Execution of Sanctions, which provides that a court may decide to impose a security measure known as “mandatory psychiatric treatment and placement in a health institution”. Following such placement, the health institution is obliged to provide annual reports to the competent court about the current state of health of the person concerned. In the event that the institution concludes that there is no further need for such a measure, it must propose to the court that the patient concerned either be released or transferred to prison to serve the remainder of any sentence imposed.

88. The Committee wishes to make clear at the outset that its delegation heard no allegations of torture or other forms of ill-treatment of patients at the forensic psychiatric section at Demir Hisar hospital; nor was any other evidence of such treatment found by the delegation during the visit. Relations between staff and patients at the forensic psychiatric unit were generally positive and tension-free.

### **2. Staff resources and treatment of patients**

89. The one full-time psychiatrist responsible for the section managed a nursing staff of 13 (7 “medical technicians” and 6 basic-grade nurses), who worked shifts to ensure a continuous presence of at least one nurse at all times. Patients held in the section also had access to the other health care services and therapeutic activities provided at Demir Hisar Psychiatric Hospital.

90. In addition to pharmacotherapy (which was being prescribed within acceptable limits), patients were involved in a variety of psycho-social therapeutic activities. In common with patients from other sections at the hospital, they had access to the establishment’s rehabilitation unit, which offered a range of activities including games and sports activities (football, chess, and table tennis), music therapy (vocal, instrumental, folk music), art therapy (ceramics and painting) sewing or carpentry workshops, and gardening. The delegation was informed that all but one patient from the forensic psychiatric section (a paranoid schizophrenic kept under close supervision) participated in some form of recreational or work activity.

Activities in the rehabilitation centre were monitored by a social worker, who recorded the names of the patients participating on a particular day, as well as the behaviour exhibited by each patient. The social worker then compiled the notes taken in respect of particular patients over a three-month period and prepared reports (including assessments of a patient's engagement in his work, independence, skill, precision and willingness to cooperate with others) for submission to the forensic section's psychiatrist.

After a day's activities in the rehabilitation centre, patients in the forensic section could associate until 9 pm (weather permitting, at tables and benches in the unit's well-tended front yard, an appealing prospect given the natural beauty of the setting). They also had access to a television room on the ground floor of the section.

91. In principle, patients held in the forensic section at Demir Hisar Psychiatric Hospital were being offered an appropriate range of therapeutic activities. However, the delegation formed the view that, at least to some extent, the potentially positive impact of those activities was being undermined by shortcomings in the patients' living conditions (on which, cf. paragraphs 92 and 93, below).

### **3. Patients' living conditions**

92. Successfully creating a positive therapeutic environment depends, to a large extent, on providing sufficient living space per patient as well as adequate lighting, heating and ventilation, maintaining the establishment in a satisfactory state of repair and meeting hospital hygiene requirements.

Patients in the forensic psychiatric section were accommodated in eleven rooms, ranging in size from 15 to 22 m<sup>2</sup>. Most provided sufficient living space (e.g. 3 or 4 patients in 22 m<sup>2</sup>); however, conditions in at least two of the rooms on the upper floor were rather cramped (4 patients in 15 m<sup>2</sup>). The rooms were in a generally good state of repair and cleanliness and had access to natural light as well as adequate artificial lighting and ventilation; however, they were largely devoid of personal objects or decoration. Furnishings were of a very basic standard (beds and the occasional locker). Staff informed the delegation that there were plans to provide all patients with personal lockers. This would be an important development; the failure to provide such facilities can impinge upon a patient's sense of security and autonomy.

The section's sanitary facilities had a decidedly unhygienic aspect; however, the delegation was told that there were plans to renovate them to a standard which meets hospital hygiene requirements.

**The CPT recommends that a very high priority be given to improving the living conditions of patients in the forensic psychiatric section and, in particular, to the renovation of the section's sanitary facilities and to providing all patients with a lockable space in which to keep their belongings.**

93. It should be added that all of the patients seen by the delegation remained dressed in pyjamas throughout the day. Such a situation is not conducive to strengthening personal identity and self-esteem; individualisation of clothing should form part of the therapeutic process. **The CPT recommends that patients be allowed to wear their own clothes during the day or be provided with appropriate non-uniform garments.**

#### 4. Means of restraint

94. In any psychiatric establishment, the restraint of agitated and/or violent patients will on occasion be necessary. However, resort to instruments of physical restraint (straps, straightjackets, etc.) shall only very rarely be justified and must always be either expressly ordered by a doctor or immediately brought to the attention of a doctor with a view to seeking his approval. If, exceptionally, recourse is had to instruments of physical restraint, they should be removed at the earliest opportunity; they should never be applied, or their application prolonged, as a punishment.

In the forensic psychiatric section, only the psychiatrist was authorised to order the restraint of a patient (on a strap bed). However, the delegation was concerned to learn from nursing staff that, on occasion, patients had been left strapped to that bed for periods of 2 to 3 days. Such a practice cannot have any therapeutic justification and, in the CPT's view, amounts to ill-treatment. Consequently, **the Committee recommends that the necessary steps be taken to ensure that such a situation does not recur.**

95. The CPT's misgivings about the manner in which physical restraint was being applied in the forensic psychiatric section are heightened by the fact that there was no systematic recording of its use.

In this connection, **the CPT recommends that every instance of the physical restraint of a patient (manual control, use of instruments of physical restraint, seclusion) be recorded in a specific register established for that purpose (as well as in the patient's file). The entry should include the times at which the measure began and ended, the circumstances of the case, the reasons for resorting to the measure, the name of the doctor who ordered or approved it, and an account of any injuries sustained by patients or staff.**

#### 5. Safeguards during placement and discharge

96. An introductory brochure setting out the establishment's routine and patients' rights should be issued to each patient on admission, as well as to their families. Any patients unable to understand this brochure should receive appropriate assistance.

Further, as in any place of deprivation of liberty, an effective complaints procedure is a basic safeguard against ill-treatment in psychiatric establishments. Specific arrangements should exist enabling patients to lodge formal complaints with a clearly-designated body, and to communicate on a confidential basis with an appropriate authority outside the establishment.

At the time of the visit, neither of these safeguards existed at the forensic psychiatric section at Demir Hisar Psychiatric Hospital. **The CPT recommends that they be introduced at that establishment and in all other psychiatric hospitals where patients may be held involuntarily.**

97. The CPT also attaches considerable importance to psychiatric establishments being visited on a regular basis by an independent outside body (e.g. a judge or supervisory committee) which is responsible for the inspection of patients' care. This body should be authorised, in particular, to talk privately with patients, receive directly any complaints which they might have and make any necessary recommendations.

**The CPT invites the authorities of “the former Yugoslav Republic of Macedonia” to consider introducing such a system of inspections.**

98. Lastly, it is axiomatic that any form of involuntary placement in a psychiatric establishment should cease as soon as it is no longer required by the patient's mental state. Consequently, the need for such a placement should be reviewed at regular intervals. In addition, the patient himself should be able to request at reasonable intervals that the necessity for placement be considered by a judicial authority.

**The CPT would like to receive further information about the approach adopted to this matter in “the former Yugoslav Republic of Macedonia”.**

**D. Establishments under the authority of the Ministry of Defence**

99. The delegation was informed that there are no military detention facilities in “the former Yugoslav Republic of Macedonia”. Nevertheless, the army does have authority to stop and temporarily detain persons who have illegally crossed a border. Such persons may be held for short periods of time at border guard stations controlled by the army, before being handed over to the police. The delegation visited two such establishments, namely the border guard stations at Sopot (on the border with the Federal Republic of Yugoslavia) and at Medžitlija (on the border with Greece).

Although neither establishment had any purpose-built holding facilities, the areas in which persons might be held were clean and in good order (at Sopot, a dining room, and at Medžitlija, a waiting room, in both cases equipped with chairs). The facilities concerned were quite suitable for relatively short periods of detention (i.e. a few hours).

However, the delegation was informed by senior officers that, on occasion, persons might be held overnight in more remote border guard stations (e.g. at Debar on the border with Albania). **It would like to receive information about the accommodation arrangements which obtain at border guard stations where persons may be held overnight.**

100. As regards the records kept of detention by the army, at Sopot, a detailed record was kept at the border guard station, whereas, at Medžitlija, such records accompanied persons handed over to the police. **The CPT considers that it would be preferable if a full record of all detentions were to be retained at every border guard station in which persons may be deprived of their liberty.** This is all the more important in view of the shortcomings in police record-keeping practices to which reference has already been made (cf. paragraph 45).



### III. RECAPITULATION AND CONCLUSIONS

#### A. Establishments under the authority of the Ministry of the Interior

101. In the period preceding its delegation's visit to "the former Yugoslav Republic of Macedonia", the CPT gathered information from a variety of sources regarding the manner in which persons were treated by the police. That information included a significant number of allegations of physical ill-treatment of detained persons by police officers, both at the time of arrest and during their time in police custody.

In the course of the visit itself, the delegation received a considerable number of allegations from persons deprived of their liberty regarding very recent ill-treatment in police custody. The allegations related to police stations throughout the country, and the forms of ill-treatment alleged included threats of physical violence, punches, kicks and blows from baseball bats, batons and metal rods or cables. Certain detained persons also alleged that they had been repeatedly struck on the palms of their hands and/or the soles of their feet by police officers. In a significant proportion of cases, the delegation gathered medical evidence which was consistent with the accounts of ill-treatment made by the persons concerned. Reference should also be made to certain suspicious objects – in some cases corresponding to items which detained persons alleged had been used to ill-treat them – which were found in interrogation rooms in a number of police establishments visited.

Reports alleging ill-treatment by the police were also received by the Committee after the visit had ended.

102. On the basis of all the information obtained by the CPT before, during and after the visit, the Committee has concluded that physical ill-treatment of persons deprived of their liberty by the police in "the former Yugoslav Republic of Macedonia" is relatively common.

The CPT has stressed that the provision of adequate professional training, incorporating human rights principles, is an essential element in any strategy for the prevention of ill-treatment. In this respect, while welcoming the efforts already being made by the relevant authorities, the Committee has emphasised that the necessary resources must be made available to ensure that ongoing training initiatives are pursued with vigour at all levels of the law enforcement hierarchy. The CPT has also recommended that the relevant national authorities as well as senior police officers make it clear to police officers that the ill-treatment of persons in their custody is not acceptable and will be dealt with severely.

103. Further, the CPT has recommended the strengthening of certain formal safeguards against ill-treatment for persons deprived of their liberty by the police (in particular as regards notification of custody, access to a lawyer and access to a doctor).

The CPT has welcomed the fact that, in principle, persons deprived of their liberty have the right to notify a third party of their custody, and a right of access to a lawyer. However, having regard to its delegation's findings in fact, the Committee has recommended that measures be taken to ensure that these rights are rendered fully effective in practice. The Committee has also recommended that the circumstances under which notification of custody may be delayed be more closely defined, and that the precise content of the right of access to a lawyer be developed.

Given that there is currently no statutory or regulatory provision in "the former Yugoslav Republic of Macedonia" governing access to a doctor for persons in police custody, the CPT has recommended that this right be formally guaranteed.

104. A number of other recommendations and comments have been made concerning safeguards against ill-treatment, including as regards the provision of information on rights, the drawing up of a code of conduct for interrogations, custody records and inspection procedures.

105. Conditions of detention in the police establishments visited were poor. The vast majority of cells seen had inadequate lighting, unusable bedding and were in a generally filthy condition. Moreover, credible allegations suggested that many persons detained by the police were not granted access to sanitary facilities or given food. The CPT has recommended that urgent measures be taken to rectify the shortcomings observed by its delegation in the police establishments visited. More generally, it has recommended that steps be taken to ensure that conditions of detention in all police establishments fully comply with all of the criteria set out in the Committee's report.

## **B. Establishments under the authority of the Ministry of Justice**

106. The CPT's delegation heard no allegations of torture or other forms of deliberate ill-treatment – and gathered no other evidence of such treatment – of inmates by staff in the establishments visited or in other establishments under the authority of the Ministry of Justice. However, it has recommended that an end be put to the practice of shaving the heads of residents at Tetovo Educational-Correctional Institution and that staff at that establishment who come into direct contact with the residents cease to openly carry batons.

107. The CPT's visit to Idrizovo Prison and Tetovo Educational-Correctional Institution revealed a number of positive and promising features. Both establishments were, in principle, equipped with the basic infrastructure necessary to provide decent conditions of detention. Moreover, management and staff clearly aspired to provide inmates with meaningful regimes.

Nevertheless, the physical fabric of most parts of both establishments has been allowed to deteriorate to such a point as to impinge seriously upon both the quality of life of persons deprived of their liberty and the working conditions of staff.

In this context, the CPT has stressed that the standard of accommodation is central to the quality of life within a place of detention. More particularly, cells should offer sufficient living space for the inmates they are used to accommodate, should benefit from good access to natural light and ventilation, and should be equipped with adequate artificial lighting and heating. Sanitary arrangements should permit inmates to comply with the needs of nature when necessary in clean and decent conditions. It is desirable for running water to be made available within cellular accommodation, and inmates should have adequate access to hygienic shower or bathing facilities. Cells should be suitably furnished (bed, table, chair/stool, storage space), all facilities/equipment should be in a good state of repair, and inmates should be placed in a position to keep their accommodation in an adequate state of cleanliness.

108. Further, the delegation's findings revealed a clear gap between the aspirations of management and staff concerning regime activities and the programmes which were actually being delivered to inmates.

In this context, the Committee has made clear its view that the aim should be to ensure that all prisoners spend a reasonable part of the day (i.e. 8 hours or more) outside their cells engaged in purposeful activities of a varied nature: work, preferably with vocational value, education, sport, recreation/association. Young persons should be offered a full programme of educational, recreational and other purposeful activities; physical education should constitute an important part of that programme. Further, the programme should be implemented by persons trained in dealing with the young.

109. The CPT has recommended that the national authorities take all necessary steps – and explore all available channels – with a view to improving material conditions and regime activities in the aforementioned establishments.

110. As regards medical services, the existing resources of the health-care team at Idrizovo Prison were found to be manifestly insufficient for an establishment accommodating more than 600 sentenced inmates. As a result, in both the prison itself and in the Closed Unit at the State Hospital in Skopje, inmates were engaged in tasks which are properly those of a nurse, such as the distribution of medication and the provision of first aid. Staff shortages also compromised medical confidentiality, in that inmates – and certain custodial staff – had ready access to prisoners' medical files. The CPT has recommended that staffing levels in the health care team at Idrizovo Prison be significantly augmented, in particular as regards nursing cover, and that measures be introduced to guarantee that medical confidentiality is strictly respected. The Committee has also recommended that a visiting psychologist/psychiatric service be introduced at that establishment.

By contrast, the health care service at Tetovo Educational-Correctional Institution appeared to be of a reasonable standard in terms of both staff and facilities.

111. The CPT has also made a number of recommendations and comments regarding a variety of other issues of relevance to its mandate (staffing questions, contact with the outside world, discipline, and complaints and inspection procedures). Particular reference should be made to the recommendation that an aptitude for interpersonal communication be a major factor in the process of recruiting prison officers and that, during the induction and in-service training of such officers, considerable emphasis be placed on acquiring and developing interpersonal communication skills. Building positive relations with prisoners should be recognised as a key feature of a prison officer's vocation.

**C. The forensic psychiatric section at Demir Hisar Psychiatric Hospital**

112. The CPT's delegation heard no allegations of torture or other forms of ill-treatment of patients at the forensic psychiatric section at Demir Hisar Psychiatric Hospital; nor was any other evidence of such treatment found during the visit. Relations between staff and patients were generally positive and tension-free.

113. In principle, patients held in the forensic psychiatric section were being offered an appropriate range of therapeutic activities. However, the delegation formed the view that, at least to some extent, the potentially positive impact of those activities was being undermined by shortcomings in the patients' living conditions. Although their rooms were in a generally good state of repair and cleanliness and had access to natural light, as well as adequate artificial lighting and ventilation, they were largely devoid of personal objects or decoration. Moreover, the section's sanitary facilities had a decidedly unhygienic aspect.

The CPT has recommended that a very high priority be given to improving the living conditions of patients in the forensic psychiatric section and, in particular, to the renovation of the section's sanitary facilities and to providing all patients with a lockable space in which to keep their belongings.

114. All of the patients seen by the delegation remained dressed in pyjamas throughout the day, a situation which is not conducive to strengthening personal identity and self-esteem; individualisation of clothing should form part of the therapeutic process. Consequently, the CPT has recommended that patients be allowed to wear their own clothes during the day or be provided with appropriate non-uniform garments.

115. In the light of its delegation's findings at the forensic psychiatric section, the CPT has recommended that every instance of the physical restraint of a patient (manual control, use of instruments of physical restraint, seclusion) be recorded in a specific register established for that purpose (as well as in the patient's file). The entry should include the times at which the measure began and ended, the circumstances of the case, the reasons for resorting to the measure, the name of the doctor who ordered or approved it, and an account of any injuries sustained by patients or staff.

Further, the CPT has made clear its disapproval of the approach followed on occasion of strapping patients to a bed for periods of days; it has recommended that steps be taken to ensure that such a situation does not recur.

116. The CPT has also recommended that two additional safeguards - an introductory brochure setting out the establishment's routine and patients' rights, and an effective complaints procedure - be introduced at Demir Hisar Psychiatric Hospital and in all other psychiatric hospitals where patients may be held involuntarily.

**D. Establishments under the authority of the Ministry of Defence**

117. Although neither Medžitlija nor Sopot border guard stations had any purpose-built holding facilities, the areas in which persons might be held were found to be clean, in good order and quite suitable for relatively short periods of detention (i.e. a few hours). In consequence, they call for no particular comment by the CPT.

**E. Action on the CPT's recommendations, comments and requests for information**

118. The various recommendations, comments and requests for information formulated by the CPT are summarised in Appendix I.

119. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the CPT requests the authorities of "the former Yugoslav Republic of Macedonia":

- i. to provide within six months an interim report giving details of how it is intended to implement the CPT's recommendations and, as the case may be, providing an account of action already taken; (N.B. the Committee has indicated the urgency of certain of its recommendations)
- ii. to provide within twelve months a follow-up report providing a full account of action taken to implement the CPT's recommendations.

The CPT trusts that it will also be possible for the authorities of "the former Yugoslav Republic of Macedonia" to provide in the above-mentioned report reactions to the comments formulated in this report which are summarised in Appendix I as well as replies to the requests for information made.

**APPENDIX I**

**SUMMARY OF THE CPT'S RECOMMENDATIONS,  
COMMENTS AND REQUESTS FOR INFORMATION**

**A. Establishments under the authority of the Ministry of the Interior**

**1. Preliminary remarks**

requests for information

- confirmation that time spent on police premises engaged in “informative talks” (*izvestuvanje*) leading directly to a period of deprivation of liberty should always be counted as part of the 24 hour maximum period of police custody; in the affirmative, a detailed account of the measures taken by the relevant authorities to ensure that this is the case (paragraph 9).

**2. Torture and other forms of physical ill-treatment**

recommendations

- the relevant national authorities as well as senior police officers to make it clear to police officers that the ill-treatment of persons in their custody is not acceptable and will be dealt with severely (paragraph 20);
- appropriate steps to be taken to ensure that all objects to be used as items of evidence are properly labelled and held in a secure location designated for that purpose, and that no other non standard-issue items are held on police premises (paragraph 22).

comments

- the CPT trusts that the necessary resources will be made available to ensure that improvements in the training of police officers are pursued with vigour (paragraph 19);
- efforts to improve the training of police officers should not be limited to senior officers and new recruits – they should exist at all levels of the law enforcement hierarchy, and be ongoing (paragraph 19).

requests for information

- details of any measures taken by the Government in response to the report of the Parliamentary Committee Inquiry into the events of 9 July 1997 (paragraph 13);
- the outcome of the inquiry and criminal proceedings concerning the alleged incident on 24 May 1998 to which reference is made in paragraph 16 (paragraph 16);
- for the three-year period 1996-1998:
  - . the number of complaints of ill-treatment by the police lodged and the number of disciplinary and/or criminal proceedings initiated as a result of those complaints;
  - . an account of disciplinary/criminal sanctions imposed on the grounds of ill-treatment by the police (paragraph 21).

**2. Conditions of detention**

recommendations

- urgent measures to be taken to rectify the shortcomings observed by the CPT's delegation in the police establishments visited (paragraph 27);
- steps to be taken to ensure that conditions of detention in all police establishments fully comply with the criteria set out in paragraph 23 (paragraph 27);
- as regards the provision of food to persons in police custody, the relevant authorities to ensure that police officers are made aware that they are obliged to comply with the terms of Section 37 of the Regulations for the Ministry of the Interior, regardless of the financial means of a given detainee. Budgetary means to be set aside to defray the cost of providing food to those unable to pay for it (paragraph 27).

comments

- to hold a person in a dark cell, for any length of time whatsoever, is unacceptable (paragraph 27).

### **3. Safeguards against the ill-treatment of detained persons**

#### recommendations

- appropriate action to be taken to ensure that the right to notify a close relative or third party of the fact of one's detention is rendered fully effective in practice (paragraph 31);
- the circumstances under which the right to notify someone of the fact of one's custody can be delayed to be more closely defined and any possibility exceptionally to delay the exercise of this right to be clearly circumscribed, made subject to appropriate safeguards (e.g. any such delay to be recorded in writing together with the reasons therefor and to require the approval of a senior police officer or public prosecutor) and strictly limited in time (paragraph 32);
- action to be taken to ensure that the right of detained persons to have access to a lawyer is rendered fully effective in practice (paragraph 35);
- the precise content of the right of access to a lawyer to be reviewed, in the light of the remarks set out in paragraph 36 (paragraph 36);
- the right of persons in police custody to have access to a doctor, including - if they so wish - to a doctor of their own choice, to be formally guaranteed. The relevant provisions to stipulate that:
  - . all medical examinations should be conducted out of the hearing and - unless the doctor requests otherwise in a given case - out of the sight of police officers;
  - . the results of every examination, as well as any relevant statements by the detained person and the doctor's conclusions, should be formally recorded by the doctor and made available to the detained person and his lawyer (paragraph 39);
- a form setting out the rights of persons detained by the police in a straightforward manner to be given systematically to such persons at the very outset of their custody. The form to be comprehensible to the person concerned, who should be asked to certify that he has been informed of his rights (paragraph 41);
- a code of conduct for police interviews to be drawn up, in the light of the remarks set out in paragraph 42 (paragraph 42);
- steps to be taken to ensure that whenever a person is detained in a police establishment, for whatever reason or length of time, the fact of his detention is recorded without delay (paragraph 45).

#### comments

- invitation to explore the possibility of maintaining a single, comprehensive custody record for every person detained, in accordance with the criteria outlined in paragraph 43 (paragraph 45);



- invitation to consider introducing a system of inspections of police establishments by an independent authority (paragraph 46).

requests for information

- information on the regulations which apply to the provision of legal advice and assistance for persons in custody who are not in a position to pay for legal services (paragraph 37).

**B. Establishments under the authority of the Ministry of Justice**

**1. Torture and other forms of ill-treatment**

recommendations

- at Tetovo Educational-Correctional Institution, an end to be put to the practices of shaving the heads of certain residents and of the open carrying of batons by staff who work in direct contact with the residents (paragraph 50).

requests for information

- for the three-year period 1996-1998:
  - . the number of complaints lodged of ill-treatment by custodial staff in establishments under the authority of the Ministry of Justice and the number of disciplinary and/or criminal proceedings initiated as a result of those complaints;
  - . an account of disciplinary/criminal sanctions imposed on the grounds of ill-treatment by custodial staff (paragraph 51).

**2. Conditions of detention**

recommendations

- all necessary steps to be taken – and all available channels explored – with a view to improving material conditions and regime activities in Idrizovo Prison and Tetovo Educational-Correctional Institute (and, if necessary, in other establishments where similar conditions obtain), having regard to the remarks set out in paragraphs 52 to 62 (paragraph 63).

### **3. Medical services**

#### recommendations

at Idrizovo Prison:

- staffing levels in the health care team to be significantly augmented, in particular as regards nursing cover (paragraph 66);
- measures to be introduced to guarantee that medical confidentiality is strictly respected (paragraph 66);
- a visiting psychologist/psychiatric service to be introduced (paragraph 67);
- the health care facilities to be upgraded (paragraph 68).

#### comments

- it would be desirable for Idrizovo Prison to secure the services of at least the equivalent of an additional, half-time, doctor (paragraph 66).

#### requests for information

- details of the renovation work being carried out at the Closed Unit of the State Hospital in Skopje (paragraph 68).

### **4. Other issues**

#### recommendations

- an aptitude for interpersonal communication to be a major factor in the process of recruiting prison officers and, during the induction and in-service training of such officers, considerable emphasis to be placed on acquiring and developing interpersonal communication skills. Building positive relations with prisoners to be recognised as a key feature of a prison officer's vocation (paragraph 70);
- the cells used for solitary confinement at Idrizovo Prison to be fitted with heating (paragraph 80);
- a very high priority to be given to establishing the State Commission for the Supervision of Prisons (paragraph 85).

comments

- invitation to conduct a review of current staffing arrangements at Idrizovo Prison with a view to ensuring that:
  - . the number of prison officers employed is sufficient to ensure staff safety and the physical and mental integrity of inmates;
  - . the current complement of custodial staff are being deployed in the most operationally-efficient manner (paragraph 72);
- efforts should be made to increase the number of visits for convicted prisoners at Idrizovo Prison; in due course, the formal visiting entitlement for such inmates should be revised (paragraph 75);
- invitation to make provision for prisoners to be able to correspond on a confidential basis with the President of the CPT (paragraph 83);
- the relevant authorities are invited to review the operation of complaints procedures at Tetovo Educational-Correctional Institution (paragraph 84);
- the CPT requests that its views on the importance of regular visits to prisons by an independent body, and on the manner in which such visits ought to be conducted, be brought to the attention of all inspectorial authorities (paragraph 85).

requests for information

- any progress which has been made in installing additional telephones for the use of prisoners at Idrizovo Prison (paragraph 77);
- confirmation that the call bell system in the cells used for solitary confinement at Idrizovo Prison is now in operation (paragraph 80);
- confirmation that prisoners have confidential access to the European Court of Human Rights and to the Ombudsman (paragraph 83);
- whether complaints procedures in educational-correctional institutions are the subject of any formal legal provisions (paragraph 84);
- whether educational-correctional institutions are regularly visited by an independent body (paragraph 86).

**C. The forensic psychiatric section at Demir Hisar Psychiatric Hospital**

**1. Patients' living conditions**

recommendations

- a very high priority to be given to improving the living conditions of patients and, in particular, to the renovation of the sanitary facilities and to providing all patients with a lockable space in which to keep their belongings (paragraph 92);
- patients to be allowed to wear their own clothes during the day or to be provided with appropriate non-uniform garments (paragraph 93).

**2. Means of restraint**

recommendations

- the necessary steps to be taken to ensure that instruments of physical restraint are not applied to patients for prolonged periods (paragraph 94);
- every instance of the physical restraint of a patient (manual control, use of instruments of physical restraint, seclusion) to be recorded in a specific register established for that purpose (as well as in the patient's file). The entry to include the times at which the measure began and ended, the circumstances of the case, the reasons for resorting to the measure, the name of the doctor who ordered or approved it, and an account of any injuries sustained by patients or staff (paragraph 95).

**3. Safeguards during placement and discharge**

recommendations

- an introductory brochure setting out the establishment's regime and patients' rights to be issued to each patient on admission at Demir Hisar Psychiatric Hospital, as well as to their families. Further, specific arrangements to be made for patients at that establishment to lodge formal complaints with a clearly-designated body, and to communicate on a confidential basis with an appropriate authority outside the establishment. These safeguards also to be introduced in all other psychiatric hospitals where patients may be held involuntarily (paragraph 96).

comments

- invitation to consider introducing a system of regular inspections of psychiatric establishments by an independent outside body (paragraph 97).

requests for information

- further information about the manner in which the necessity for continued involuntary placement in a psychiatric establishment is reviewed (paragraph 98).

**D. Establishments under the authority of the Ministry of Defence**

comments

- it would be preferable if a full record of all detentions were to be retained at every border guard station in which persons may be deprived of their liberty (paragraph 100).

requests for information

- information about the accommodation arrangements which obtain at border guard stations where persons may be held overnight (paragraph 99).

**APPENDIX II**

**NATIONAL AUTHORITIES AND ORGANISATIONS  
WITH WHICH THE DELEGATION HELD CONSULTATIONS**

**A. Ministerial authorities**

**Ministry of the Interior**

Mr Aleksandar DONČEV	Assistant Minister of Police
Mr Ljubomir MIHAJLOVSKI	Under-Secretary

**Ministry of Justice**

Mr Gjorgji SPASOV	Minister of Justice
Mr Dragi CELEVSKI	Head of the Prison Service
Ms Maja PATČEVA	Adviser to the Minister of Justice

**Ministry of Health**

Mr Petar ILIEVSKI	Minister of Health
Ms Violeta MALINSKA	Under-Secretary

**Ministry of Defence**

General Pande PETROVSKI	Deputy Chief of General Staff for Combat Readiness
Mr Vlado POPOVSKI	Head of the Department for International Co-operation

**Ministry of Foreign Affairs**

Mr Saško TODOROVSKI	Assistant Minister of Foreign Affairs
Ms Danica RUŽIN	Head of the Division for the Council of Europe
Mr Zoran TODOROV	Human Rights Division
Mr Igor POPOVSKI	Division for the Council of Europe
Ms Elizabeta GEORGIEVSKA	Division for the Council of Europe

**B. Other authorities**

**Office of the Ombudsman**

Ljupčo IVANOVSKI

Deputy Ombudsman

Tripun TANUŠEVSKI

Deputy Ombudsman

**C. Inter-governmental organisations**

Organisation for Security and Co-operation in Europe

United Nations Preventive Deployment Force

**D. Non-governmental organisations**

Macedonian Helsinki Committee on Human Rights