



CPT/Inf (2008) 5

**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 15 to 26 May 2006**

The Government of “the former Yugoslav Republic of Macedonia” has requested the publication of this report and of its response. The Government’s response is set out in document CPT/Inf (2008) 6.

Strasbourg, 13 February 2008

Note:

In accordance with Article 11, paragraph 3, of the Convention, certain names have been deleted.

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**Copy of the letter transmitting the CPT's report**

Strasbourg, 24 November 2006

Dear Ambassador,

In pursuance of Article 10, paragraph 1, of the European Convention for the prevention of torture and inhuman or degrading treatment or punishment ("the Convention"), I 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) following its visit to "the former Yugoslav Republic of Macedonia" from 15 to 26 May 2006. The report was adopted by the CPT at its 61<sup>st</sup> meeting, held from 6 to 10 November 2006.

The various recommendations, comments and requests for information formulated by the CPT are listed in Appendix I. As concerns more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the Committee requests the authorities of "the former Yugoslav Republic of Macedonia":

- i. to provide **within three months** an interim response providing an account of action already taken with regard to those recommendations specifically identified in paragraphs 20, 36, 45, 46, 50, 51, 60, 67, 68, 70, 86, 99, 118, 125, 146, 158, 159, 160 and 169;
- ii. to provide **within six months** a response providing a full account of action taken to implement all the recommendations contained in the report.

The CPT trusts that it will also be possible for the national authorities to provide, in the above-mentioned response within six months, reactions to the comments formulated in this report which are summarised in Appendix I as well as replies to the requests for information made.

The CPT would ask, in the event of the responses being forwarded in the Macedonian language, that they be accompanied by an English or French translation. It would be most helpful if a copy of the responses could be provided in a computer-readable form.

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

Yours faithfully,

Silvia CASALE  
President of the European Committee for the  
prevention of torture and inhuman  
or degrading treatment or punishment

Ms Eleonora PETROVA-MITEVSKA  
Ambassador Extraordinary and Plenipotentiary  
Permanent Representative of "the former Yugoslav Republic of Macedonia"  
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67000 Strasbourg

## 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 15 to 26 May 2006. The visit was organised within the framework of the CPT's programme of periodic visits for 2006; it was the Committee's sixth visit to the country.

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

- Mauro PALMA (Head of delegation and 1<sup>st</sup> Vice-President of the CPT)
- Marija DEFINIS GOJANOVIĆ
- Mario FELICE
- Anna GAVRILOVA-ANCHEVA
- Eugenijus GEFENAS.

They were supported by the following members of the CPT's Secretariat:

- Hugh CHETWYND
- Caterina BOLOGNESE

and assisted by:

- Dan DERMENGIU, Head of Forensic Medicine, "Carol Davila" Medical Faculty, Bucharest, Romania (expert)
- Roger HOUCHIN, Co-director of the Glasgow Centre for the Study of Violence, Glasgow Caledonian University, United Kingdom (expert)
- Clive MEUX, consultant forensic psychiatrist, Oxford, United Kingdom (expert)
- Fatos KICA (interpreter)
- Natalija KUNOVSKA-CINGARSKA (interpreter)
- Vladimir OGNJANOVSKI (interpreter)
- Petrit SARACINI (interpreter)

- Jasna ŠOPTRAJANOVA-VRTEVA (interpreter)
- Tatijana TEMELKOSKA-MILENKOVIĆ (interpreter).

**B. Establishments visited**

3. The delegation visited the following places of detention:

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

- Kumanovo Police Station
- Premises of the Directorate for Security and Counterintelligence (UBK), Kumanovo
- Bit Pazar Police Station, Skopje
- Čair Police Station, Skopje
- Centar Police Station, Skopje
- Gazi Baba Police Station, Skopje
- Karpoš Police Station, Skopje
- Kisela Voda Police Station, Skopje
- Kisela Voda Traffic Police Station, Skopje
- Mirkovci Police Station, Skopje
- Special Mobile Police Unit (“Alfa”) Headquarters, Skopje
- Tetovo Police Station

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

- Idrizovo Prison
- Skopje Prison
- Štip Prison
- Tetovo Prison
- Educational-Correctional Institution, Skopje
- the Closed Unit at the State University Hospital, Skopje.

**Establishments under the authority of the Ministry of Health**

- Demir Hisar Psychiatric Hospital, including the Prilep Mental Health Care centre

The delegation also visited the Institute of Forensic Medicine at the State University Hospital in Skopje.

**Establishments under the authority of the Ministry of Labour and Social Policy**

- Demir Kapija Special Institution for mentally disabled persons



**C. Consultations held by the delegation**

4. In the course of the visit, the CPT's delegation met with Ljubomir MIHAJLOVSKI, Minister of the Interior, Meri MLADENOVSKA-GJORGJIEVSKA, Minister of Justice, Vane NAUMOSKI, State Secretary of the Ministry of Health and Aco JANEVSKI, State Secretary of the Ministry of Labour and Social Policy, as well as with Kostadinco EFREMOV, Director of the Directorate for the Execution of Sanctions, and other senior officials from relevant Ministries and Services. The delegation also met with Aleksandar PRCEVSKI, Public Prosecutor and Dragi CELEVSKI and Tripun TANUSEVSKI, Deputy Ombudsmen in charge of prison and police matters, respectively, as well as with civil society representatives.

A list of the national authorities and non-governmental organisations met by the delegation is set out in Appendix II to this report.

**D. Cooperation between the CPT and the national authorities**

5. The degree of co-operation received during the visit from the authorities at central level was very good. The delegation noted that, in general, information about a possible visit by the Committee, and concerning its mandate and powers, had been provided to places used for holding persons deprived of their liberty; consequently, the delegation had rapid access to the establishments it wished to visit, to the documentation it wanted to consult and to individuals whom it wished to interview. In particular, the delegation would like to thank the CPT liaison officers for the assistance provided before and during the visit.

Regrettably, there were a number of incidents at local level which marred the good co-operation. For example, staff at Demir Hisar Psychiatric Hospital concealed from the delegation the use of chains as a means of restraint; at Skopje Prison the delegation had to intervene twice within 48 hours in relation to the same issue concerning lack of care for vulnerable prisoners; and at Idrizovo Prison, certain inmates incurred reprisals in the days after they had met with members of the CPT's delegation.

6. In the course of the 2006 visit, the CPT's delegation encountered no obstacles in meeting with persons, in private, held on remand in any of the prisons visited. Nevertheless, the restrictive provisions of Article 195 of the Code of Criminal Procedure, whereby an investigative judge has to provide approval for the Committee to hold unsupervised interviews with prisoners, remain in place. These provisions directly contravene paragraph 2(c) and paragraph 3 of Article 8 of the Convention, which entitle the Committee to move inside places of deprivation of liberty without restriction and to interview in private persons deprived of their liberty. The Convention allows no limitations to be placed upon these rights. By letter of 11 November 2004 the Committee informed the authorities about its concerns regarding these provisions and requested that they be deleted. **The CPT recommends that the Code of Criminal Procedure be amended accordingly.**

7. The principle of cooperation set out in the Convention also requires that decisive action be taken to improve the situation in the light of the Committee's recommendations.

The authorities appear to have only adopted certain limited measures in response to the recommendations made by the Committee after previous visits. The CPT welcomes the action that has been taken; however, the fundamental measures required to improve the situation in, for example, the prisons and the psychiatric hospital visited were lacking. In particular, the authorities should invest greater efforts to tackle the systemic deficiencies, for example, in relation to the prison service and to combating impunity within the law enforcement agencies; this involves *inter alia* better cooperation and coordination among the relevant ministries and government bodies, and a more proactive stance by prosecutors and judges. Therefore, the Committee has been obliged to reiterate many of its recommendations, some of which are of very long standing.

Having regard to Article 3 of the Convention, the CPT urges the authorities of "the former Yugoslav Republic of Macedonia" to significantly intensify their efforts to improve the situation in the light of the Committee's recommendations.

The CPT must stress that a persistent non-implementation of its recommendations by the national authorities will leave the Committee with no choice but to consider having recourse to the procedure provided for in Article 10, paragraph 2, of the Convention<sup>1</sup>. The Committee trusts that the action taken in the light of this report will render such a step unnecessary. In particular, it will be scrutinising the action taken in those areas in respect of which an interim response has been requested within three months; notably as regards combating impunity, the conditions of detention in prisons and the treatment and care of particularly vulnerable persons.

#### **E. Immediate observations under Article 8, paragraph 5, of the Convention**

8. At the meeting which took place at the end of the visit on 26 May 2006, the CPT's delegation made a number of immediate observations under Article 8, paragraph 5, of the Convention as regards the follow-up to cases of alleged ill-treatment in several prisons, the treatment provided to vulnerable prisoners, the provision of at least one hour of outdoor exercise per day for every prisoner, and the ending of the resort to chains as a means of restraint in psychiatric establishments. As regards Demir Kapija Special Institution for mentally disabled persons, it requested information regarding the outcome of an investigation into a death and confirmation that residents are fed in a manner that respects their human dignity. The national authorities were requested to provide the CPT, respectively, with:

- by 15 June 2006, a report on the care being provided to two juveniles in Skopje Prison who had attempted suicide and committed acts of self-harm, as well as to the juvenile who had intervened to prevent these acts;
- by 30 June 2006, a copy of the guidelines issued to all prisons to ensure appropriate care for persons at risk of self-harm or suicide;

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<sup>1</sup> Article 10, paragraph 2, reads as follows: "If the Party fails to co-operate or refuses to improve the situation in the light of the Committee's recommendations, the Committee may decide, after the Party has had an opportunity to make known its views, by a majority of two-thirds of its members to make a public statement on the matter".

- by 30 June 2006, the results of the investigations into the alleged ill-treatment in Idrizovo and Skopje Prisons as well as the Educational-Correction Institution located in Skopje, and information on the measures taken to prevent any future ill-treatment of prisoners by prison officers;
- by 30 June 2006, confirmation that every remand prisoner is offered at least one hour of outdoor exercise every day;
- by 30 June 2006, confirmation that proper restraint equipment as well as an adequate staffing presence are in place at Demir Hisar Psychiatric Hospital, and that all chains used for restraining patients have been removed from the hospital;
- by 30 June 2006, information pertaining to the outcome of the investigation into the death of a resident at Demir Kapija Special Institution for mentally disabled persons;
- by 30 June 2006, confirmation that residents at Demir Kapija are fed in a manner that respects their human dignity.

By letters of 14, 16, 20 and 29 June 2006, the national authorities informed the CPT of measures taken in response to the immediate observations and on other issues raised by the delegation at the end of the visit. These responses have been taken into account in the relevant sections of the present report.

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

### A. Law enforcement agencies

#### 1. Preliminary remarks

9. The CPT's delegation carried out follow-up visits to the police station and the premises of the UBK in Kumanovo, to Tetovo Police Station and in Skopje to Bit Pazar, Čair, Centar, Gazi Baba (also known as Avtokommanda), Karpoš, Kisela Voda and Mirkovci Police Stations. It also visited for the first time the Special Mobile Police Unit ("Alfa") Headquarters.

10. In its report on the July 2004 visit, the CPT welcomed the system-wide reforms that the Ministry of Interior had set in motion towards building and maintaining a professional police service, which has the confidence of the general public<sup>2</sup>. The challenge of translating such reforms into substantial improvements in practice appears to be bearing fruit; for instance, in 2006 there was a marked improvement in the professionalism of the police officers whom the delegation encountered in the various police stations visited. Moreover, the CPT welcomes the fact that, according to the Ministry of Interior, 'investigative talks' are now registered and invitations for such talks are delivered to the persons concerned in writing, with an indication of the place, time and reason for the talk.

Nevertheless, the findings of the 2006 visit also demonstrate that there can be no room for complacency. Important reforms, notably the adoption of a new Police Law, need to be pursued and the process of transforming mentalities within the police in order to eradicate the problem of torture and other forms of ill-treatment must be continued. In this respect, there is equally an onus upon the judiciary and prosecution services to investigate thoroughly allegations of ill-treatment by the police.

11. The CPT had an opportunity to examine a version of the draft Police Law from March 2006, recently adopted by Parliament with minor changes.<sup>3</sup> The Committee has some concerns with regard to a number of aspects of the law, notably: the lack of explicit provision for the disclosure of sensitive information to the Prosecution Office and the lack of provision for cooperation with the Ombudsman's Office regulated in line with the Law on the Ombudsman<sup>4</sup>; and an independent body supervising the police should be established<sup>5</sup>. The Committee also has some concerns about how the safeguards relating to police custody for 12 hours will be regulated.<sup>6</sup>

**The CPT would like to receive the comments of the authorities as regards these specific issues.**

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<sup>2</sup> See CPT/Inf (2006) 36, paragraphs 11 and 12.

<sup>3</sup> The Law was adopted on 3 November 2006 and promulgated on 11 November 2006, but it will only be applicable one year after entering into force (i.e. 11 November 2007).

<sup>4</sup> "The bodies set out in Article 2 of this Law are obliged to co-operate with the Ombudsman and upon his request to provide him with all the evidence, data and information, notwithstanding the degree of confidentiality, and to enable him to enforce the procedure. The Ombudsman is obliged to keep a state and official secret in a manner, and under the conditions, stipulated by law and other regulation" (Article 27 of the Ombudsman Law, No. 07-4502/1).

<sup>5</sup> The existing Sector for Internal Control and Professional Standards (SVKPS) within the Ministry of Interior is an internal organ and does not enjoy the attributes of an independent body.

<sup>6</sup> Section 50 (paragraphs 2 and 3) reads: "The police officer can detain a person who violates or jeopardises the public order and peace, and the establishment of the public order and peace or the removal of the threat cannot be achieved otherwise. The detention referred to in paragraph 2 of this Article may last no longer than 12 hours."

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

12. A considerable number of persons - including juveniles - interviewed by the delegation in the course of the visit alleged they had been ill-treated by law enforcement officials. The alleged ill-treatment consisted mostly of kicks, punches and blows with batons or various other objects, often inflicted prior to and during questioning; in some cases with a view to extracting a confession or obtaining information. Certain allegations also referred to the use of excessive force at the time of arrest. It should be noted that in most cases the allegations of ill-treatment concerned non-uniformed police officers.

13. For many of the persons, the time of the alleged ill-treatment pre-dated the delegation's visit by several weeks and any marks which might have been caused by the ill-treatment alleged would almost certainly have healed in the meantime. However, in a number of cases, the delegation's doctors gathered medical evidence consistent with the allegations of ill-treatment either through an examination of the persons concerned or by consulting relevant medical records.

i) For example, one person alleged that after being apprehended by the police and taken to Kumanovo Police Station, he was kicked, punched and beaten with a truncheon on his head and body by several policemen (both uniformed and civilian) over a period of several hours. He also alleged that he was thrown against a window which smashed upon impact with his head, and that whilst being ill-treated he was handcuffed behind his back. Upon examination by a medical member of the delegation, two days later, he displayed recent bruising under the left eye and on the right side of his chest as well as multiple elongated bruises on both his right and left legs; the right side of his face was swollen and there were abrasions around his lips; his left ear was swollen and his right ear indicated a possible rupture of the tympanic membrane due to a severe blow to the ear - his hearing appeared impaired (see Appendix III for a full description of the injuries).

The injuries were entirely consistent with his allegations as to the timing and nature of the ill-treatment<sup>7</sup>, and the delegation was able to confirm many of the details during its visit to Kumanovo Police Station.

ii) Another case concerns the alleged ill-treatment of certain persons suspected of being involved in the Post Office robbery in Tetovo on 18 April 2006. At the time of the visit the persons in question were being held on remand in Štip and Skopje Prisons and the delegation interviewed each one of them separately. They all explained that their apprehension by armed police in civilian clothes had been swift and had involved minimal force. However, beginning with the journey to the police station and continuing during their detention in Kisela Voda Police Station, they alleged to have been repeatedly beaten in separate rooms by a number of civilian police officers over the course of nearly 24 hours.

➤ S.I. claimed that he was repeatedly beaten with fists to the head, neck and back until

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<sup>7</sup> The medical examination by the prison doctor noted the same injuries in a more cursory manner and referred the inmate to hospital but the urgency and a timescale for review was not recorded. Moreover, no follow-up action had been taken by the prison to notify the prosecution service (cf. paragraph 46 below).

he fell unconscious; upon revival, the beatings continued until the early hours of the following morning.

- F.N. alleged he was initially beaten on his back and head, while handcuffed behind his back; thereafter, on the second floor of the police station he was repeatedly punched in the ribs and back, and a metal bar was put between his legs and used to hoist him into the air; the police officers also pushed the bar against the rear of his jeans and threatened to insert it into his anus; the beatings continued, including during the journeys to and from the location where his blood and finger prints were taken, until the following afternoon.
- A.R. stated that, while handcuffed behind his back, he was kicked, punched, slapped and hit with batons; that a knife was put to his throat and his beard was cut off.

The men were taken to court in the evening of 19 April, where they were photographed, and thereafter remanded in custody<sup>8</sup>.

iii) A third case concerns two persons (F.R. and F.H.) suspected at the time of having carried out the bombing of Bit Pazar Police Station on 15 July 2005. Both men alleged to have been held in unauthorised places of detention, during which time they claimed to have been severely ill-treated (see paragraph 32 in Section B below), before being transferred to police stations in Skopje, where they were ill-treated again. The description below relates to their alleged ill-treatment in Kisela Voda and Karpoš police stations, respectively.

- F.R. alleged that during his stay in Kisela Voda Police Station on 15 August he was taken to an office on the ground floor, told to stand facing the wall, then punched and hit with a baton on his back, particularly around the kidney area, until he fell down. Throughout the day he was subjected to further kicks and punches. At night he was kept handcuffed to a radiator in a ground floor office. He also claims that during his detention he was offered no food or drink and was not allowed to contact a lawyer or notify his family<sup>9</sup>.
- F.H. alleged that he was taken to Karpoš Police Station late on 15 August where he was subjected to punches and kicks, and spent the night handcuffed to a radiator<sup>10</sup>.

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<sup>8</sup> The medical files for S.I. and F.N. at Štip Prison each noted that, upon their arrival on 19 April 2006, at 23h30, “it was established that signs of trauma were visible on the person: a haematoma in the region of the left shoulder-blade”. A.R.’s medical file only contains data after 8 May 2006, following his transfer from Štip to Skopje Prison.

<sup>9</sup> On 17 August 2005 F.R. was examined by a doctor at Skopje Prison. His medical file noted: “Haematoma under the right lower eyelid; haematoma in his back area and haematoma in the upper side of his back area, 5cm”.

<sup>10</sup> On 17 August 2005 F.H. was examined by a doctor at Skopje Prison. His medical file noted: “Haematoma under both elbows; haematoma on the left side of his back 8 × 3 cm. Haematoma in the back region; haematoma in the upper part of both legs (on each side); haematoma on both feet”.

iv) A fourth case concerns an inmate who escaped from Tetovo Prison in the early hours of 14 May 2006. The person in question had been admitted to the prison seven days previously with severe injuries<sup>11</sup>, allegedly sustained while in police custody. Fellow inmates stated to the delegation that the prisoner had remained confined to his bed for the first two days and could not attend the toilet without being supported. They also said that upon admission his face was bruised and bloodied and his ears were black, and that he had complained about injuries to his head, arms and legs, and recounted that the soles of his feet had been beaten.

14. The delegation also paid particular attention to the operating procedures of the Special Mobile Police Units (more commonly known by their acronym "Alfa"). These units have been created by a Minister of Interior instruction in January 2005, as a rapid reaction force to combat street crime within the major urban centres of the country. Members of the units wore plain clothes and drove unmarked cars, and were mandated to arrest persons either caught in the act of committing an offence or for whom an arrest warrant existed. Once apprehended, a person would be taken by the Alfa team to a police station and handed over to police inspectors for questioning or placed in a detention cell. The new force was viewed by the Ministry as having a positive effect in reducing the incidents of street crime.

Although no complaints about the Alfa teams had been made to the Sector for Internal Control and Professional Standards (SVKPS) at the time of CPT's visit nearly all of the persons interviewed by the delegation, who had been apprehended by members of the Alfa teams, alleged to have been subjected to ill-treatment. The detailed allegations involved the excessive use of force at the time of apprehension, as well as ill-treatment after the suspects had been brought under control and no longer represented a threat to the officers concerned. In those cases where the injuries were described in the medical files of the persons in question, they were consistent with the allegations of ill-treatment.

15. The information gathered in the course of the 2006 visit concerning ill-treatment highlights the necessity for continued determined action by the authorities to address the situation. All means should be explored to ensure that the message of zero tolerance of ill-treatment of detained persons reaches all law enforcement officials at all levels; they should be made aware, through concrete action, that the government is resolved to stamp out ill-treatment of persons deprived of their liberty. The rule of law entails not only the adoption of the appropriate legal norms but also taking the necessary steps to ensure their application. There should periodically be an instruction from the Minister of Interior or the Chief of Police explicitly reminding police officers that infringements of the law will result in criminal and disciplinary sanctions. **The CPT recommends that the authorities strenuously reiterate the above message of zero tolerance of ill-treatment of persons deprived of their liberty and reinforce it with a statement at the appropriate political level.**

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<sup>11</sup> The prison medical file noted:

- 9.05 Bilateral orbital haematoma. Otagia (=pain of the ear). Status post head concussion
- 10.05 Ophthalmologic examination: Bilateral palpebral haematoma. Subconjunctival haemorrhage
- 10.05: ORL examination: perforation of the left tympanic membrane. Hypoacousia (diminished hearing)
- 11.05: Bilateral orbital haematoma. Otagia (=pain of the ear). Status post head concussion

16. As indicated in previous reports, it is essential to ensure that police officers themselves view ill-treatment as an unprofessional means of carrying out their duties, as well as being a criminal act. This implies strict selection criteria at the time of recruitment and the provision of adequate professional training, both initial and in-service.

In its response to the 2004 ad hoc visit report the authorities of “the former Yugoslav Republic of Macedonia” informed the CPT about the ongoing education and training of police officers with regard to the use of force. However, theory and practice are often very different, and new recruits may find it hard to apply the correct procedures on the ground, especially if not supported by more experienced officers. For this reason, **the CPT recommends that the authorities pursue a multifaceted approach comprising: a competitive recruitment process based upon strict selection criteria; an educational training course for all new recruits; and the provision of specific competency courses, on a regular basis, for serving police officers, both to update their skills and knowledge as well as to provide them with new competencies.**

### 3. Safeguards against ill-treatment

17. As noted above, there was a marked improvement in the professionalism of police officers responsible for custodial duties in the various police stations visited as compared with previous visits.

Nevertheless, the CPT remains concerned about the practical application of the formal legal provisions regarding safeguards against ill-treatment. The Committee has placed particular emphasis on three fundamental rights, namely the right of detained persons to inform a close relative or another third party of their choice of their situation, and the rights of access to a lawyer and to a doctor. It is equally fundamental that persons deprived of their liberty by the police be informed without delay of all their rights, including those mentioned above.

18. Many persons interviewed by the CPT’s delegation alleged that the right of notification of custody had not been granted to them as from the outset of their deprivation of liberty. Instead an opportunity to notify relatives of their custody was only granted after the questioning by the police had been terminated and the statement drawn up. In certain cases, detained persons informed the delegation that they had not been able to notify their families about their whereabouts until after they had been remanded in pre-trial detention.

**The CPT recommends that the authorities ensure that all detained persons are granted the right to notify a close relative or third party of their choice of their situation as from the very outset of their deprivation of liberty by the police.<sup>12</sup>**

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<sup>12</sup> Any possibility to delay exceptionally the exercise of this right should be clearly circumscribed in law, be made subject to appropriate safeguards (i.e. any delay to be recorded in writing along with the reason, and to require the approval of the prosecutor or judge) and be strictly limited in time.



19. The situation as regards the right of access to a lawyer has not changed since the previous visit<sup>13</sup>. Formally the situation is favourable, and the amendment of 2004 to the Law on Criminal Procedure, which allows for persons without the means to pay for legal services to be provided with such services free of charge at all stages of the police procedures, is positive<sup>14</sup>. However, once again the information gathered revealed a wide gap between law and practice. Most detained persons complained that the first contact they had with a lawyer occurred when they were brought before an investigative judge to be remanded into pre-trial detention<sup>15</sup>. The delegation also heard specific allegations concerning juveniles being denied the right of access to a lawyer (or to a guardian) while being interrogated by the police.

20. The CPT is obliged to reiterate its concern at this state of affairs. The Committee must draw to the attention of the authorities once again that, in its experience, it is during the period immediately following the deprivation of liberty that the risk of ill-treatment, including intimidation, is greatest. Consequently, the right for persons deprived of their liberty by the law enforcement authorities to have access to a lawyer during this period is a fundamental safeguard against ill-treatment.

The right of access to a lawyer must include the right for any detained person to talk to his lawyer *in private* upon being admitted into the police station. The person concerned should, in principle, be entitled to have a lawyer present during any interrogation, whether this be before or after he is charged. Naturally, the fact that a detained person has stated that he wishes to have access to a lawyer should not prevent the police from beginning to question him on urgent matters before the lawyer arrives. Provision could also be made for the replacement of a lawyer who impedes the proper conduct of an interrogation, on the understanding that such a possibility should be strictly circumscribed and subject to appropriate safeguards.

**The CPT again calls upon the relevant authorities to take action without delay to ensure that the right of access to a lawyer for persons deprived of their liberty by law enforcement agencies is rendered fully effective in practice, as from the very outset of deprivation of liberty.**

**Further, as regards juveniles, steps should be taken to ensure that an adult responsible for the interests of the juvenile (i.e. a relative or a guardian) is present when the juvenile concerned is interviewed.**

21. The right of persons in police custody to have access to a doctor is still not formally guaranteed<sup>16</sup>. In the course of the visit, a number of persons who alleged ill-treatment by police officers stated that they had not been offered the opportunity to contact a doctor. **The CPT calls upon the authorities to ensure that specific legal provisions are adopted on this subject in accordance with previous recommendations** (see CPT/Inf (2006) 36, paragraph 41).

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<sup>13</sup> cf. CPT/Inf (2006) 36, paragraph 40.

<sup>14</sup> cf. CPT/Inf (2006) 37, page 9.

<sup>15</sup> See also paragraph 22 below.

<sup>16</sup> It should be noted that even the new Law on the Police does not provide for the right of access to a doctor.

22. The delegation noted that in most police stations the custody registers were filled out comprehensively. However, to what extent the registers represented an accurate reflection of the situation is open to question, as it appeared (improbably) that only very rarely did anyone request to either notify a third person or to have access to a lawyer or to a doctor. For example, of the 1303 persons entered in the custody record at Centar Police Station in Skopje, between 1 January and 20 May 2006, apparently not one had requested to have access to a lawyer and only five had asked to notify their families. The custody records in other police stations painted a similar picture of a blanket refusal by persons deprived of their liberty to exercise their fundamental rights. **The CPT would like to receive the comments of the authorities on this state of affairs.**

23. As regards information on rights, in most of the police stations visited there were posters displayed in prominent places which spelt out, in a number of languages, the rights of detained persons. Further, a form setting out those rights had to be signed by detained persons. In the light of the facts found during the visit, **the CPT recommends that steps be taken to ensure that this form is provided to such persons at the very outset of their custody. Moreover, persons called for investigative talks who are subsequently deprived of their liberty should be apprised of their rights a second time.**

#### **4. Material conditions**

24. Although the delegation noted that most of the detention areas of police stations were clean, the overall state of the premises remained unsatisfactory. In particular, natural lighting was either poor or non-existent and in certain places there was not even any artificial lighting (Centar, Karpoš, Tetovo); ventilation was a problem everywhere. Call bells were also absent in a number of places which meant that custodial staff might not be able to hear whether a detained person was in need of assistance or wanted to go to the toilet (Bit Pazar, Centar, Gazi Baba, Tetovo). The cells in Kumanovo Police Station were dark, humid and filthy, and the mattresses and blankets dirty and decrepit, while the cells in Čair Police Station possessed no means of rest for detained persons staying overnight in custody (which happened on occasion).

The Committee is concerned that eight years after its first visit, no efforts have been made to improve the material conditions in certain police stations. For example, in its 1998 visit report, the CPT stated, in respect of the unlit cell in Tetovo Police Station, that “to hold a person in a dark cell, for any length of time whatsoever, is unacceptable” and recommended urgent measures to be taken to remedy that shortcoming. The same recommendation was reiterated in the July and November 2002 visit reports. The necessary improvement could have been made with very little expenditure. This is a clear case of lack of cooperation (cf. paragraph 7 above).

The national authorities should devise and pursue a properly-resourced strategy to improve and maintain conditions of detention in police establishments throughout the country. Further, as recommended by the Committee in the past, consideration should be given to establishing an independent authority charged with inspecting police detention facilities; visits by such an authority should be both frequent and unannounced, and the authority concerned must be empowered to discuss in private with detained persons.

**The CPT calls upon the authorities to take the necessary measures in the light of the above remarks.**

25. The delegation also came across a small cubicle holding area, covered with a metal grill, on the first floor of Kumanovo Police Station, which appeared to the delegation to have recently been used by the criminal division to hold persons despite affirmations to the contrary. The delegation requested that it be decommissioned forthwith and the surrounding wall demolished. **The CPT would like to receive confirmation that this cubicle is no longer being used for holding persons.**

## **B. Combating impunity**

### **1. Postscript to cases raised in previous reports**

26. The CPT has noted with concern that no follow-up action has been taken by the national authorities in response to the various cases involving ill-treatment and impunity that the Committee raised in its previous reports<sup>17</sup>. Most recently, in response to the CPT's request of 26 April 2006 for further information regarding these cases, the authorities replied that the procedures relating to the cases of Messrs. A.A. and R.B. (the latter being part of the so-called 'Sopot' case) had been carried out in accordance with the law, while no further information was available regarding the other cases.

In the course of the 2006 visit, the CPT's delegation had an opportunity to re-evaluate some of the cases it had described in detail in previous reports. The information gathered by the delegation shows that the authorities have chosen not to inform the CPT of the facts at their disposal that confirm the Committee's previous findings. The CPT requires full and correct information from its interlocutors.

27. The CPT acknowledges that many of the cases raised took place during a time of tension, and even armed conflict, and that there is a desire by all parties to try and place those events in the past and focus on the future. Nevertheless, it should be recalled that there can never be any derogation from the prohibition of torture and inhuman or degrading treatment or punishment, not even under a state of emergency<sup>18</sup>.

Once a practice has been allowed to develop which permits law enforcement officials to apprehend, detain (sometimes outside the remit of the law) and ill-treat suspects without any fear of being held to account, terminating such a practice requires determined action. A first step should be to ensure a proper investigation into any allegations. In various cases examined over the past five years by the CPT it is clear that this first step has not happened and is still not happening. For example, there has been a lack of action by the competent authorities to investigate the well-documented case of the alleged ill-treatment inflicted upon the persons suspected of the armed robbery of a post office in April 2006 in Tetovo. This points, at least, to a lack of official will to combat ill-treatment, if not to official complicity. Such a state of affairs can only reinforce a disregard for the rule of law.

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<sup>17</sup> See paragraphs 28, 34, and 56 to 64 of CPT/Inf (2003) 3, paragraphs 13 to 32 of CPT/Inf (2003) 5, paragraphs 28 to 33 of CPT/Inf (2004) 29, as well as paragraphs 19 to 26, 29 and 30 of CPT/Inf (2006) 36.

<sup>18</sup> See Article 15 of the European Convention on Human Rights, as well as Article 4 of the International Covenant on Civil and Political Rights.

28. In this context, it is worth referring to the report of the International Working Group<sup>19</sup>, which in the course of 2005 considered some nine cases concerning excessive use of coercion and firearms between 2000 and 2003. Four of these cases - Ratae, Highway Tetovo-Gostivar, A.A. and Sopot - were considered by the CPT on the occasion of its visits between 2001 and 2004.

The conclusions of the report highlight *inter alia* that even in 2005 the authorities failed to cooperate fully in investigating the cases, that prosecutorial investigations were not carried out because the system of recording and record-keeping was not complied with, and Ministry of Interior officials did not disclose the identity of people who operated in the cases under investigation; and that internal disciplinary sanctions could not be applied due to the short timeframe within which administrative lapses could be punished.

In sum, the concerns raised by the CPT in the past as regards accountability were not only justified but remain relevant.

29. As to the individual cases, the International Working Group report confirmed the CPT's earlier findings. For example, in the case of A.A. it concluded:

"In relation to the case of [A.A.] (10 June 2003), the WG determined that the Daily Events Log-book in the Kumanovo PS contains a record of invitation for [A.A.] to the Kumanovo PS on 10.06.03 for an informative talk and a record of transfer of [A.A.] from the Kumanovo PS to the Sutka Prison in Skopje on 12.06.03. However, the detention itself was not registered in the PS Daily Events Log-book and in the Police Detention Registry at all. The copy of the Order for Detention in the police custody presented to the WG did not have any stamp, signature nor date when the document was issued. The investigation revealed that [A.A.] was kept in UBK custody and, in clear violation of procedure, was not placed in a regular detention facility. Instead, he spent the 2-days of detention in the UBK's offices. Note that [A.A.] confessed to his crimes during that period and later was checked into Sutka detention facility with visible bruises, according to the prison doctor. At his trial, he denied his confession, stating that it was given under coercion."

"It appears that the MoI authorized officials (UBK officers) failed to follow procedures (no official notes and reports were produced in context of the provisions of the Articles 35 and 48 of the Rulebook), as well as omitted the detainee from registration in the Police Detention Registry. Their failure to use the proper detention facilities constitutes a violation of the law. Also concerning [A.A.]'s case, there is no written document from the Basic Court Kumanovo justifying the extension of the constitutionally-mandated 24 hour detention limit. According to police documents, [A.A.] was detained on 10.06.03 and only two days later, on 12.06.03 he was brought before the Investigating Judge. Apparently the Investigating Judge ordered pre-trial detention as if it started on 11.06.03 - even though he had not seen [A.A.] on or before that date. Therefore, not only did the MoI authorized officials (UBK officers) fail to promptly deliver the person deprived of liberty to the competent Investigating Judge as required by the provisions of the Article 46 paragraph 1 of the Rulebook, but the IJ was complicit in this clear violation of Article 12 of the Constitution".<sup>20</sup>

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<sup>19</sup> The Working Group included senior officials of the Ministry of Interior and representatives from OSCE, PROXIMA, NATO, EUSR and the United States Embassy.

<sup>20</sup> Extract from the Annex on Findings of the Working Group, as appended to the letter of 7 December 2005 from the Principals of the Working Group organisations to the then Minister of Interior, Ljubomir Mihajlovski.

However, as late as May 2006 the authorities of “the former Yugoslav Republic of Macedonia” were providing the CPT with unreliable information as regards this case. This is of serious concern to the Committee (see also paragraph 26 above).

Finally, it is extraordinary to note that despite the allegations made by A.A., the prosecutorial and investigative authorities (including the SVKPS) never interviewed him about the unlawful detention, his treatment by the police and the alleged severe beating he received by unidentified persons while on remand in Skopje Prison; yet, he has been in prison since June 2003. Such inaction does not inspire confidence in the stated will of the authorities to combat impunity.

30. The CPT’s delegation was itself able, in the course of the 2006 visit, to obtain further corroboration both in regard to the unauthorised detention and the ill-treatment inflicted upon A.A. in June 2003, and in respect of the Sopot case.

## **2. Unauthorised places of detention**

31. In its 2004 visit report, the CPT indicated once more its concerns regarding incommunicado detention in clandestine locations and the lack of compliance by the UBK with the general legal and regulatory framework. The authorities, in their response, again reassured the Committee that the activities of the UBK were all undertaken in accordance with the law<sup>21</sup>.

Nevertheless, the CPT’s delegation received detailed information, including on the apparent location of such places, that the practice of the UBK of holding persons in incommunicado detention in clandestine locations did occur until at least 2004.

32. The delegation also heard more recent accounts, dating from August 2005, concerning the alleged detention in unauthorised locations of two persons, suspected at the time of being involved in the bombing of the Bit Pazar Police Station (see also paragraph 13, iii), above). Both alleged they were “abducted” on the streets of Skopje by men dressed in civilian clothes. One alleged that he was picked up on 14 August and driven, with a bag over his head, to two different places in the countryside where he claimed to have been severely beaten, and subjected to a mock execution and to electric shocks. He was then taken to Kisela Voda Police Station. The second person stated that he was bundled into a car by several officers on 12 August, had a paper bag placed over his head and was driven to a house. Over the course of some three days he was allegedly repeatedly beaten with a stick on his legs and buttocks, and had his penis slammed in a drawer; he also stated that he was thrown into a swimming pool while tied up. On 15 August he was driven back to Skopje blindfolded, released in Georgi Petrov suburb, and then immediately arrested by uniformed police officers, who took him to Karpoš Police Station.

Both men were admitted to Skopje Prison on 16 August 2005, where on the following day their injuries were recorded by the prison doctor (see footnotes 9 and 10 above). Their case was subsequently taken up by the Ombudsman’s Office and, at the hearing concerning their Appeal on 5 June 2006, their lawyers contended that the statements they had made to the police had been extorted after several days of beatings.

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<sup>21</sup> See CPT/Inf (2006) 36, paragraph 43 and, as regards the response, CPT/Inf (2006) 37, page 10.

33. In the light of the authorities' categorical denial of unauthorised detentions, the CPT is concerned that elements of the law enforcement agencies may be operating outside the chain of command and control of the Ministry of Interior. To allay such fears, the Committee would have expected the authorities to have initiated a thorough investigation into the above allegations. To date this has not been the case.

### **3. Assessment and action**

34. The CPT has invested much time and effort into the process of examining the integrity of the system of accountability for law enforcement officials in cases of alleged ill-treatment in "the former Yugoslav Republic of Macedonia"<sup>22</sup>. The general conclusion has been that even when detained persons manifest visible injuries or do indicate to an investigating judge and/or prosecutor that they have been ill-treated, there is no guarantee that any effective investigation will be set into motion. Moreover, in respect of internal accountability procedures, the Committee has found that the manner in which police complaints were investigated did not meet the principles of an effective investigation as set out in previous CPT visit reports.<sup>23</sup>

The reaction by the national authorities has been disappointing: no substantive follow-up action has been taken in respect of most of the specific cases set out in previous reports where the Committee had found that there had been a failure to carry out an effective investigation. Instead, there has only been an acknowledgement of the problem by various authorities, while at the same time placing the onus on other parties to initiate measures in the combat against impunity in cases of alleged ill-treatment by law enforcement officials.

35. In the course of the 2006 visit, many of the persons who alleged ill-treatment by law enforcement officials claimed that the judges who remanded them into custody paid no attention to such allegations, even when they made a formal statement and displayed visible injuries. Moreover, when injuries were noted following the initial medical examination of newly remanded prisoners there was no automatic process for informing the prosecutor's office and initiating proceedings.

Indeed, the delegation heard several clear examples of inaction by public authorities (police officers, judges, prison directors) even once evidence of injury and alleged ill-treatment were brought to their attention. The cases referred to in paragraph 13 above are stark examples, as is the case concerning the death of I.I. at Demir Kapija Special Institution for mentally disabled persons (see paragraph 159). The fight against impunity, it would appear, was being left to non-governmental organisations and the Ombudsman's Office, as opposed to the Ministry of Interior and the Prosecutor's Office.

36. The authorities must demonstrate without further delay that they are committed to taking concerted action throughout the criminal justice system and the Ministry of Interior to overcome the apparent bias which continues to undermine the system of accountability for law enforcement and other public officials.

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<sup>22</sup> See CPT/Inf (2003) 3, paragraphs 28, 34, and 56 to 64; CPT/Inf (2003) 5, paragraphs 13 to 32; CPT/Inf (2004) 29, paragraphs 28 to 33; and CPT/Inf (2006) 36, paragraphs 17 to 37.

<sup>23</sup> See CPT/Inf (2003) 5, paragraph 30 and CPT/Inf (2006) 36, paragraph 33.

The precepts that were laid down in detail in the July 2004 visit report do not appear to have been taken on board, whether in respect of the prosecutorial and judicial authorities, the SVKPS or the management of the prisons. Nor is enough being done to promote a culture within the police where it is regarded as unprofessional - and unsafe from a career path standpoint - to work and associate with colleagues who have resort to ill-treatment; there must be a clear understanding that culpability for ill-treatment extends beyond the actual perpetrators to anyone who knows that ill-treatment is occurring and fails to act to prevent or report it.

**The CPT calls upon the relevant authorities, once again, to take vigorous and sustained action to ensure that the precepts set out in the report on the July 2004 visit<sup>24</sup>, as well as in paragraphs 25 to 42 of the Committee's 14th General Report<sup>25</sup>, are systematically applied in practice.**

**The Committee also recommends that when allegations of detention in unauthorised locations are levelled against the law enforcement agencies, an independent investigation be instituted to examine the veracity of such claims.**

**Further, the CPT recommends that the authorities carry out effective investigations into the cases of alleged ill-treatment referred to in paragraph 35 above.**

**The CPT would like to be informed in detail of the sequence of procedures that need to be completed in a case where an individual alleges ill-treatment by law enforcement officials.**

**Moreover, the Committee would like to receive statistics concerning the number of cases opened against police officers for alleged ill-treatment of persons deprived of their liberty, and the status of the cases, for the years 2004, 2005 and 2006.**

#### **4. Institute of Forensic Medicine**

37. The CPT's delegation visited the Institute of Forensic Medicine in Skopje, which falls under the supervision of the Ministry of Health, as it had concerns that forensic autopsies were not being ordered in all cases where deaths had occurred in an establishment where persons are deprived of their liberty by a public authority, contrary to the recommendations of the European Council of Legal Medicine and of the Council of Europe<sup>26</sup>.

The Committee is concerned by its findings. Not only are such autopsies not being routinely performed but the Ministry of Health has not adopted any guidelines on the matter. Moreover, despite the Institute being well-equipped and possessing international accreditation in respect of its procedures and laboratories, judicial authorities are not requesting the Institute to perform forensic examinations. Instead private doctors, with no forensic training, are being asked to perform such tasks.

**The Committee would like to receive the comments of the authorities in respect of these matters.**

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<sup>24</sup> See paragraphs 31 to 36 of CPT/Inf (2006) 36.

<sup>25</sup> See CPT/Inf (2004) 28.

<sup>26</sup> See Recommendation Rec(99)3 of the Committee of Ministers of the Council of Europe to member states on the harmonization of medico-legal autopsy.

## C. Prison establishments

### 1. Preliminary remarks

38. In the course of the 2006 visit, the CPT examined the conditions of detention at the Prisons of Idrizovo, Skopje and Tetovo, and undertook a targeted visit to Štip Prison, focusing on the situation of persons on remand as well as sentenced prisoners in the closed unit.

39. *Idrizovo Prison* has been described in general in the 1998 CPT visit report<sup>27</sup>. The official capacity is 850 male and 50 female prisoners and at the time of the visit it accommodated 1,276 prisoners<sup>28</sup> (i.e. roughly 60% of the total prison population), of whom 36 were women. Idrizovo also accommodates all foreigners who have been sentenced to imprisonment and, at the time of the visit, they numbered 67 men and five women.

*Skopje Prison*, described in the November 2002 CPT visit report<sup>29</sup>, has a capacity for 85 remand prisoners and held 167 at the time of the delegation's visit, while the sentenced prisoner population was 204 for a capacity of 150.

*Štip Prison*, located on the outskirts of the town in the eastern part of the country, held 89<sup>30</sup> sentenced prisoners for a capacity of 150 and seven persons on remand for a capacity of 20.

*Tetovo Prison*, described in the November 2002 CPT visit report<sup>31</sup>, was holding 11 persons on remand and 58 sentenced prisoners for an official capacity of 20 and 64, respectively.

40. The prison population has more than doubled since the first CPT visit in 1998 to over 2,000 in 2006. However, there has been no concomitant expansion in the prison estate nor in the personnel or resources devoted to the prison system. In addition there are a number of fundamental structural organisational issues, which serve to undermine any attempts to provide appropriate conditions of detention and treatment for persons deprived of their liberty. They include a lack of any strategic plan to manage complex institutions such as prisons, the absence of an effective system of reporting and supervision, and an inadequate management of staff and poor staff performance.

The delegation was also deeply concerned by the inadequate provision of health care in all institutions visited, the very low staffing levels (and the corresponding effects this had upon professionalism and morale), and the lack of any appropriate regime.

**The CPT recommends that, following a period of in-depth consultations with all interested parties, the Ministry of Justice produce a strategic plan for the recovery of the prison system that covers the following areas:**

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<sup>27</sup> See CPT/Inf (2001) 20, paragraph 48.

<sup>28</sup> This number includes 70 prisoners recorded as escapees and not present in Idrizovo Prison.

<sup>29</sup> See CPT/Inf (2004) 29, paragraphs 39 and 44.

<sup>30</sup> This includes 11 persons held in a small closed section of the prison which has a capacity of 14.

<sup>31</sup> See CPT/Inf (2004) 29, paragraph 39.



- **the mission of prisons and the values to which prison staff will work;**
- **the size of the prison estate and the range of the prison types that it will include;**
- **the range of activities that will be provided and the amount of access that persons detained, including those on remand, will have to them;**
- **the human resource requirement needed to run the prisons professionally, giving competence profiles for the key roles;**
- **financial projections over a 5 to 10 year period, showing how the planned provision will be met within the resource levels available.**

41. The authorities apprised the CPT's delegation of their intentions to alleviate the situation of overcrowding in the prisons through the construction of a new prison in Kumanovo and the conversion of Štip into a closed (high security) prison. These establishments are intended to relieve pressure upon Idrizovo and Skopje Prisons, and are planned to become operational in 2008. However, it was also evident that the funding set aside for these projects was insufficient and foreign donations might have to be sought. It should also be borne in mind that the greater expense in the medium term will lie not with the construction but with the yearly running and maintenance costs, including personnel.

42. The CPT considers that the building of additional accommodation is unlikely, in itself, to provide a lasting solution to the challenge of overcrowding. A comparison with other European countries illustrates the difficulty of attempting to resolve the issue of overcrowding solely through increasing capacity. By contrast, the promotion of policies to limit and/or modulate the number of persons being sent to prison has tended to be an important element in maintaining the prison population at a manageable level.

In this respect, the CPT would like to draw the attention of the authorities of "the former Yugoslav Republic of Macedonia" to Recommendation No. R (99) 22 of the Council of Europe's Committee of Ministers concerning "Prison overcrowding and prison population inflation". Besides laying down some basic principles, the recommendation also suggests a number of specific tools which can be used to reduce prison overcrowding or to control prison population inflation.

**The CPT, therefore, recommends that the authorities continue to vigorously pursue multi-faceted policies designed to put an end to overcrowding in prisons, having regard *inter alia* to the principles set out in Recommendation No. R (99) 22 and other pertinent Recommendations of the Council of Europe's Committee of Ministers<sup>32</sup>.**

43. The CPT has noted that a new Law on the Execution of Sanctions (LES) entered into force on 17 January 2006. The law creates a Directorate of Prisons having an increased autonomy from the Ministry of Justice, with the latter retaining a role of general policy and supervision. However, the Minister of Justice retains the power to appoint and dismiss not only the Director General but also all the prison governors. The Committee trusts that a professional prison administration can be developed without the constant turnover of senior management that has characterised the prison system over the past few years, and in particular the largest and most complex prison of Idrizovo.

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<sup>32</sup> See Recommendation [Rec\(2000\)22 of 29 November 2000 on improving the implementation of the European rules on community sanctions and measures](#) and Recommendation [Rec\(2003\)22 of 24 September 2003 concerning conditional release](#).

In practice, the effective implementation of the law requires the drafting of a number of bye-laws including, most importantly, the internal House Rules. At the time of the visit, staff and prisoners alike had no knowledge of the provisions of the new law. Moreover, the new law retains the institution of a State Commission, which is supposed to conduct visits to prison establishments with a view to supervising the application of the law and submitting reports on its findings to the Ministry of Justice. In the period since the CPT's 1998 visit<sup>33</sup>, this body in its previous composition proved to be ineffective in carrying out its statutory tasks. The CPT trusts that, in its new composition, the State Commission will play a more proactive role in verifying whether the legal norms articulated in the law are implemented in practice.

**The CPT would like to receive a copy of the new House Rules for Idrizovo and Skopje Prisons, a list of all the other bye-laws that have been adopted and details of any other bye-laws being contemplated. Further, it would like to receive information on the activities of the State Commission to date.**

## **2. Ill-treatment**

44. The delegation heard a number of credible allegations of ill-treatment of prisoners by staff in Idrizovo Prison and Skopje Prison (remand section). The allegations mainly consisted of being beaten with truncheons, as carried by all prison officers, as well as being punched and kicked and even hit with wooden sticks and metal piping. For example, in Idrizovo Prison the delegation received numerous allegations that prisoners were being beaten by staff in the maintenance room adjoining the staff room on the ground floor of the closed part of the prison, prior to being placed in an isolation cell. In Skopje Prison there were a number of allegations concerning beatings of prisoners with truncheons, which were said to usually occur in the washrooms of the facility.

In some cases the alleged ill-treatment had occurred just prior to or during the CPT's visit and the delegation's medical members were able to examine the persons in question. For example, in Skopje Prison one person alleged to have been beaten with truncheons in the shower room the day before the delegation's visit. An examination revealed several traumatic injuries, including two red-brown concentric circular abrasions on the left shoulder blade (some 2 cm and 3.5 cm in diameter, respectively) and a patchy red bruised abraded area (7 cm x 5 cm) on the anterior aspect of the left knee. The findings were consistent with the allegations.

At Idrizovo Prison, when the delegation returned to the establishment on 25 May 2006, two persons claimed to have been beaten by prison staff a couple of days previously. In one case, the prisoner alleged he was beaten with truncheons by several prison officers prior to being placed in the isolation unit. In the second case, the prisoner claimed he was beaten by a prison officer with a truncheon in the semi-open unit. Upon examination by a medical member of the delegation, both prisoners displayed a number of recent injuries on the arms, legs and back which were consistent with their allegations (see Appendix III for a full description of the injuries).

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<sup>33</sup> cf. CPT/Inf (2001) 20, paragraph 85.

45. The CPT is concerned that the structural organisational problems referred to above have resulted in a failure to bring an end to the practice by some prison officers of resorting to violence. The Committee wishes to recall that the State is under a duty to provide care for all persons deprived of their liberty in prison, and that the frontline in providing such care rests with prison officers. The authorities must not only undertake a proper investigation into allegations of ill-treatment, but also institute measures to ensure that all prison officers and managers understand why ill-treatment is unacceptable and unprofessional and that, furthermore, it will result in severe disciplinary sanctions and/or criminal prosecution.

**Further, the CPT recommends that the Minister of Justice and Director of the Prison Administration deliver a clear message to all custodial staff that ill-treatment of prisoners is not acceptable and will be the subject of severe sanctions.**

**In addition, the CPT would like to receive information on the concrete measures taken to eradicate ill-treatment of prisoners by prison staff, including through improved management and supervisory mechanisms.**

**The CPT would like to be informed of the outcome of the investigation into the case referred to in the third sub-paragraph of paragraph 44 above, concerning alleged ill-treatment prior to being placed in the isolation unit at Idrizovo Prison.**

46. The CPT's delegation noted once again that when persons were admitted to Skopje Prison on remand with visible injuries, subsequently noted in both the administrative and medical files, it appeared that no action was taken by the prison authorities to bring this matter to the attention of the General Prosecutor's Office. This inaction constitutes a violation of Article 140 of the Code of Criminal Procedure; it also undermines the very safeguard against ill-treatment and impunity that a thorough medical examination for all newly admitted inmates represents.

**The CPT recommends that the authorities put in place a clear procedure for ensuring that all allegations and other evidence of ill-treatment by the police of persons subsequently remanded in custody are properly recorded and brought to the attention of the General Prosecutor's Office.**

**The CPT further recommends that a register be introduced at each prison to track the progress of investigations concerning allegations or other evidence of all forms of ill-treatment that may come to the attention of the prison doctor<sup>34</sup>. The Prosecutor's Office should be informed about the introduction of such a procedure and their cooperation sought.**

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<sup>34</sup> Such a register might show:

1. prison doctor: date of becoming aware of possible ill-treatment; reference to initial report of examination; date of referral of report to prison director;
2. director of prison: date of reception of report from prison doctor; reference to report of when action taken; form of investigation initiated (including referral to public prosecutor);
3. once referred to prosecutor, record of prison director's request of regular updates from the prosecutor on the progress of the investigation, including on the final outcome.

47. A further phenomenon of ill-treatment noted by the CPT's delegation concerns the lack of care provided to vulnerable prisoners, especially juveniles and children. In Skopje Prison, the delegation met a 14 year old boy who had been chained to his bed, at the left wrist and left ankle, for 16 hours without the possibility of going to the toilet. The reason given for this measure, which was intended to last some 60 hours, was to prevent the child from further self-harm or suicide. The previous day he had cut his forearms and attempted to hang himself from the window bars; however, his cellmate, a 15 year old boy, had intervened and managed to cut the sheet with shards of glass from the broken window pane. Following this incident neither of the boys had been seen by a member of the medical staff - only the measure of chaining had been ordered.

The delegation intervened and requested that the child in question be unchained and placed under constant, direct and personal supervision. The following morning the delegation noted that an appropriate solution for directly monitoring the boy had been instituted after transferring him to a larger cell, where two other juveniles were accommodated. However, two days later the delegation met another child chained to his bed at the ankle after he had committed an act of self-harm. His cellmate, the same one who intervened in the case described above, had also been injured when he had attempted to stop the act of self-harming. The delegation intervened again<sup>35</sup>. At the end of the visit the delegation requested that the authorities report, by 15 June 2006, on the care being provided to the two juveniles who had committed acts of self-harm. Further, it requested that psychological counselling be provided to the juvenile who had intervened, in both of these cases, to prevent the attempted suicide and self-harm incidents.

48. The response received by the CPT on 14 June 2006 as regards this matter is worrying. Relying on the Skopje Prison psychiatrist's assessment, the self-inflicted wounds of the first juvenile referred to above are described as having been as "a result of his desire to attract the CPT delegation's attention". Such a response is symptomatic of the lack of care being provided to vulnerable inmates in Skopje Prison, and explains why self-harming is viewed as an action warranting a disciplinary sanction rather than psychological counselling and support. To be clear, the juveniles in question had no idea when or even if the delegation would be visiting the prison. However, that is not the issue and the CPT considers such a response as an attempt at obfuscation and even a lack of cooperation. Instead, the focus should be placed upon ensuring appropriate care is provided to all persons, especially juveniles, at risk of self-harm. Further, juveniles witnessing incidents of self-harm should also be provided with counselling.

49. More generally, at Skopje Prison there continued to be allegations of persons being chained or handcuffed to fixed objects (usually the bed but also pipes) for prolonged periods. The delegation was shown the chains by prison staff who confirmed that they were routinely authorised by medical staff, in particular the psychiatrist, as a measure to prevent acts of self-harm or suicide. For instance, the delegation met an inmate who had been chained every night to his bed for more than three months, on the orders of the prison psychiatrist. Moreover, no separate register had yet been introduced on the use of means of restraint.

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<sup>35</sup> See paragraph 5 above on Cooperation.

50. **The CPT recommends that the authorities issue clear guidelines to all prisons to ensure appropriate mental health assessment and care for persons at risk of self-harm or suicide. Such guidelines should, especially in the case of juveniles and children, include the provision for educational and other activities, as being locked in a cramped cell throughout the day is not conducive to such persons' welfare. The Committee would like to receive a copy of the guidelines.**

**Chaining inmates to their bed or other fixed objects is totally unacceptable in any circumstances and could be considered as inhuman and degrading treatment.**

51. The CPT acknowledges that prison staff will on occasion have to use force to control an agitated or violent prisoner and, exceptionally, may even need to resort to instruments of physical restraint. These are clearly high-risk situations as regards the possible ill-treatment of prisoners and, as such, call for specific safeguards.

In those rare cases where resort to instruments of mechanical restraint is required to restrain an agitated or violent prisoner, this should be either expressly ordered by a doctor or immediately brought to the attention of a doctor. Thereafter, the prisoner concerned should be kept under constant, direct and personal supervision. Further, instruments of restraint should be removed at the earliest possible opportunity; they should never be applied, or their application prolonged, as punishment. In this respect, as stated above chains are an unacceptable means of restraint and resort to them should no longer be authorised.

Further, every instance of the use of force or of means of mechanical restraint against prisoners should be recorded in detail in a specific register established for this purpose (as well as in the prisoner's file); this will greatly facilitate both the management of such incidents and the oversight of the extent of their occurrence.

**The CPT recommends that any measures of mechanical restraint entail the use of appropriately designed restraint equipment, be properly applied by appropriately trained staff, monitored and recorded, including centrally, and be carried out in such a way as to maintain the dignity and safety of the prisoner. Mechanical restraints should never be applied as a punishment or for the staff's convenience. Moreover, resort to such restraints should not usually take place in the presence of other patients and there should always be a continuous direct personal supervision.**

Moreover, the Committee would like to receive confirmation that chains are no longer used as a means of restraint.

52. The Committee's delegation also observed that inter-prisoner intimidation/violence was a significant phenomenon in Idrizovo Prison and that the authorities were undertaking no measures to combat it. The delegation noted that there were numerous incidents of fights among prisoners as various groups battled to control the trade in drugs, mobile phones, etc. Other prisoners were threatened and intimidated by such groups. Further, a number of prisoners felt their lives to be in danger from other prisoners, and yet the prison authorities took no action even after being apprised of these fears. For instance, one man with whom the delegation met hardly ever left his room as he had received a credible death threat from another prisoner, yet the prison staff had informed him that there was nothing they could do; therefore, his fellow room-mates acted as constant lookouts. The delegation was also told about a shooting incident in the open unit in 2005, which resulted in the death of a prisoner; the case was the subject of an ongoing investigation by the Prosecutor's Office at the time of the visit. **The CPT would like to receive information on the outcome of the investigation.**

On many occasions in the course of the visit to Idrizovo Prison, especially to the closed section, it was the prisoners themselves who had the keys to the various rooms and dormitories that the delegation wished to enter. Privileged prisoners were being employed by staff to act as intermediaries and, with the complicity of staff, it appeared as if they were being allowed to run certain areas of the prison. Other prisoners would not talk in their presence.

53. The CPT has stressed in the past that the duty of care, which is owed by the prison authorities to prisoners in their charge, includes the responsibility to protect them from other prisoners who might wish to cause them harm. In particular, prison staff must be alert to signs of trouble and be both resolved and properly trained to intervene. Such a capacity to intervene will of course depend *inter alia* on an adequate staff/prisoner ratio (see also paragraph 56 below). In addition, the prison system as a whole may need to develop the capacity to ensure that potentially incompatible categories of prisoners are not accommodated together.

Further, prison staff are unlikely to be able to protect prisoners if they fear for their own safety or if they lack effective management support. Tackling effectively the problems posed by inter-prisoner violence requires the implementation of an individualised risk and needs assessment, the availability of sufficient members of staff and ensuring that staff receive the requisite initial and advanced training throughout their careers.

54. At Idrizovo Prison, the delegation observed the pervasive neglect by staff and management to ensure decent and safe living conditions for prisoners. Supervision of prisoners appeared to be largely delegated to privileged inmates, and was based on informers, favours, threats and control of access to facilities and privileges. The consequence was the endemic violence and intimidation witnessed by the delegation.

The lack of clear and accountable rules combined with an absence of any effective managerial supervision has permitted a culture of arbitrariness and neglect to flourish.

In the light of the remarks made in paragraphs 52 to 54 above, **the CPT recommends that the national authorities:**

- **take the necessary steps to improve the quality of supervision and decision-taking in Idrizovo Prison;**
- **devise a national strategy concerning inter-prisoner violence.**

### 3. Staffing issues

55. The climate in a prison is largely dependent on the quality and resources of its personnel. Ensuring a positive climate requires a professional team of staff, who must be present in adequate numbers at any given time in detention areas and in facilities used by prisoners for activities. Prison officers should be able to deal with prisoners in a decent and humane manner while paying attention to matters of security and good order. The development of constructive and positive relations between prison staff and prisoners will not only reduce the risk of ill-treatment but also enhance control and security. In turn, it will render the work of prison staff far more rewarding.

There must be enough staff to correctly supervise the activities of prisoners and support each other in the performance of their duties; further, management must be prepared to support staff fully in the exercise of their authority. An overall low staff complement which diminishes the possibilities of direct contact with prisoners will certainly impede the development of positive relations; more generally, it will generate an insecure environment for both staff and prisoners.

56. The delegation was struck by the fact that poor management of staff compounded the genuine challenges facing the institutions visited. The delegation noted the acute underemployment of staff at both Skopje and Idrizovo Prisons, and observed that for significant periods of the day many of the staff appeared to be doing nothing. In the latter establishment, prison staff repeatedly displayed, in the presence of members of the delegation, a general disregard for the safety, hygiene, welfare, discipline or activity of the prisoners. Such behaviour would indicate that the management of the prison had not communicated the importance of the role of the prison officers to provide a duty of care for the prisoners under their responsibility (see paragraph 53 above).

57. Inadequate staffing levels continue to constitute a major problem throughout the prison system of "the former Yugoslav Republic of Macedonia". In Skopje Prison there were only 68 prison officers, with a single 12 hour shift consisting of 12 or fewer officers and a commander for a prison population of some 378. In Idrizovo Prison, at the time of the delegation's visit, there were only some five prison officers for 604 prisoners in the closed sections of the prison, and two prison officers for the semi-open section comprising 101 prisoners. In the other prisons visited there was also a visible lack of prison staff.

Moreover, the deployment of staff was inefficient. In prison, many more activities take place during the day - meals, washing, escorts to the infirmary, visits, activities, etc. - than during the night. Yet, each shift whether day or night contained the same number of prison officers.

**The CPT recommends that the relevant authorities urgently review the current staffing levels and staff deployment throughout the prison system. The objective should be to ensure that the number of prison officers employed is sufficient to guarantee staff safety and the physical and mental integrity of inmates.**

58. The inadequate number of staff applies not only to frontline prison officers but also to other categories of prison staff. For instance, in Idrizovo Prison there were only 15 educators for the prison, with the four most recent recruits (coming from the military academy) not possessing the requisite qualifications. This meant that each educator was working with 80 to 120 prisoners when the average, the delegation was informed, should be 30 prisoners. The new LES assigns a key role to the educator, given the law's emphasis upon an individual's rehabilitation and resettlement; this requires a close assessment and supervision of each prisoner by qualified professionals throughout their sentence, the development of helping relationships and progressive re-education into law-abiding mores. Hence, it is essential that a sufficient number of properly qualified educators be employed in the prison.

Moreover, the absence of any educators from the Albanian community, when a sizeable proportion of the prison population was Albanian speaking (among whom a number spoke no other language), not only meant that they were not provided with the necessary professional support throughout their sentence, but also lent credence to claims of discrimination.

**The CPT recommends that the number of educators be increased at Idrizovo Prison and that a significant proportion of the newly appointed educators should speak Albanian.**

59. Along with increasing the number of staff, it is essential that a greater emphasis be placed upon ensuring that staff are provided with the appropriate knowledge and skills to carry out their tasks along the lines indicated in paragraph 55 above. This requires not only an initial training course for all staff but also regular in-service training to allow both updates and new skills to be learned. Training should be viewed as a life-long process and, in addition to being oriented to meeting the demands of the new legislation, must be practical and problem-based, not merely theoretical.

**The CPT would like to receive information regarding the training provided, both initial and in-service, to prison staff. Further, it would like to know what management training is provided for Directors and their assistants.**

#### **4. Conditions of detention**

##### **a. material conditions**

60. Little has changed as regards the material conditions in the remand section of **Skopje Prison** since the previous visits in 2002 and 2004 (cf. paragraph 44, CPT/Inf (2004) 29). The deficiencies noted then persist, such as pervasive dampness in the cells, old mattresses and many dilapidated and unhygienic cells. There was little natural light and the artificial lighting was inadequate, ventilation was minimal and call bells did not function. Most of the cells were overcrowded; for example, the delegation observed six persons in a cell of some 11.5m<sup>2</sup> and four persons in a cell of 8m<sup>2</sup>. In numerous cells, detained persons had to sleep on a mattress on the floor, which could not be fully extended due to a lack of space; needless to say, there was no space for personal belongings.



The admission and closed units of the prison are situated on the first floor at the base of the U-shaped structure of the prison. Both units contained seven rooms, a toilet and a shower room. Although each room was spacious, adequately ventilated and with sufficient natural light, the rooms were generally dilapidated, and some prisoners were sleeping on mattresses on the floor. The conditions of the beds, bedding and electrical fittings were poor. The toilets and basins were filthy, the toilets did not function properly, the showers were in a state of disrepair and there was no running water.

The complaints from remand and sentenced prisoners about the quality of the food, the lack of eating utensils and the inadequacy of hygiene products was confirmed by the delegation's own observations. Many complaints were also made about the limited time afforded for the weekly shower. In the closed unit, the food was served next to a mound of rubbish and rotting food.

**The CPT recommends, once again, that a concerted effort be made to reduce the occupancy rate in the remand section of Skopje Prison. As a minimum, every inmate should be provided with his/her own bed. Moreover, the sanitary facilities in the prison should be urgently renovated. At the same time, it is essential that a rolling programme of renovation of the cells and rooms be instituted, including new mattresses and bedding, and that prisoners be provided with appropriate quantities of hygiene products. The call bells should also be repaired.**

**The CPT recommends that running water be installed immediately throughout the prison, with a view to offering all inmates a shower at least once a week (more frequently if the circumstances warrant, taking into account the European Prison Rules<sup>36</sup>).**

61. Likewise, as regards the remand cells in **Tetovo Prison** there have been no improvements since the November 2002 visit<sup>37</sup>. The eight cramped, damp and dilapidated cells were still in use. Unfortunately, the design of the four new cells, which had remained empty as certain technical adjustments had been pending for over a year, replicated structural deficiencies observed in the old cells, in particular as regards access to natural light. The commissioning of these new cells will enable the older cells to be renovated and their occupancy levels reduced to provide 4m<sup>2</sup> of cell space per person. **The CPT would like to be informed when the four new cells are brought into service. Further, it trusts that greater efforts will be taken in the future when constructing new detention cells to ensure that they are built to an optimal design.**

62. In **Idrizovo Prison**, squalid living conditions in an unsafe and unhygienic environment prevailed in a majority of the living quarters.

The self-contained admission unit, in which all prisoners spent their first 30 days before being allocated to a closed, semi-open or open unit within the establishment, consisted of six dormitories, offices and interview rooms, a dining room and washroom. There was an open grass area and parade ground and the unit was surrounded by a wall. The dormitories were in a state of disrepair with visible dampness on the walls, the bedding was torn and dirty, the mattresses filthy and shedding their stuffing, and the wiring was exposed. Overcrowding was particularly acute in the two rooms accommodating Albanian prisoners; for example, 17 persons in 31m<sup>2</sup> and 15 persons in 32m<sup>2</sup>, with two prisoners in this latter room having to share the top level of a bunk bed.

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<sup>36</sup> See Section 19.4 of the revised European Prison Rules (Recommendation Rec(2006)2 of the Council of Europe's Committee of Ministers to Member States).

<sup>37</sup> cf. CPT/Inf (2004) 29, paragraph 46.

The so-called geriatric unit was a single storey building comprised of four dormitories: a large dormitory of 85m<sup>2</sup> with 24 beds, and three smaller dormitories of 21m<sup>2</sup>, 16m<sup>2</sup> and 15.5m<sup>2</sup> with seven, four and three beds, respectively. The building was generally dilapidated with many visible damp patches, a crumbling ceiling, peeling plaster and dirty stained walls. The natural light was limited and the artificial lighting - three bare bulbs in the large room - totally inadequate. The hygiene products provided to the prisoners were insufficient for the needs. The small washroom containing the shower and floor-level toilet was dilapidated and dirty. The makeshift shower piping leaked and there was no hot water. Moreover, beyond the outer wall of the toilet there was an open sewer blocked up with faeces and the smell pervaded the toilet area and, at times, the whole building. Many of the prisoners, some of whom were over 70 years old, had health problems and the smaller dormitories accommodated a number of prisoners with psychiatric disorders and other chronic health problems. The conditions of their detention could certainly be described as inhuman and degrading.

63. As observed in 1998, the closed section of the prison had the form of a radial design comprising three wings, each of three levels. Two of the wings (wings A and C, on the left and right of the main entrance, respectively) had been renovated in recent years and the conditions could be described as acceptable; however, the delegation noted that these newly renovated wings were already showing signs of wear and tear. Ensuring they are properly maintained is essential.

By contrast, conditions in the unrenovated wing B accommodating some 210 prisoners were deplorable; access to it involved stepping over the spatial divide between this wing and the rest of the building - a step into another world. The whole structure was broken and crumbling with parts of the floors and walls missing, windows were broken or absent, dampness was prevalent and the common spaces dirty and malodorous. The toilets and shower areas were in an appalling state. There were many complaints about the infestation of insects, and that in winter the central heating did not work properly. Along the two sides of each floor were the dormitories, while the intervening space was covered by makeshift meshing; the railings outside the rooms were missing and the concrete footpaths eroded, thus great care had to be taken when negotiating one's way between the rooms not to fall onto the central meshing, or possibly through to the lower floor. Overcrowding was common, for example, 20 persons in a dormitory of 44m<sup>2</sup> on the second floor.

Across from the main entrance to the radial design building was a single storey structure, known as the "school". The accommodation area contained seven dormitories, a library and a washroom along a long corridor accessed through an iron gate. The corridor was gloomy, with little artificial or natural light, humid, and with piles of rubbish and rotting food along it; a powerful stench emanated from the food and blocked drains. At the time of the visit there were some 73 prisoners accommodated in the "school" who had access to two floor-level toilets, neither of which had a working flush. The single shower was behind a locked door and access to it was controlled by a prisoner. Five of the rooms, largely accommodating Roma men, provided less than 3m<sup>2</sup> living space per prisoner (for example, 8 prisoners in 18m<sup>2</sup>) and all the rooms were in a state of disrepair - many had floor boards missing as the prisoners had used them for firewood in winter to fuel the wood burner. Two of the rooms provided accommodation of more than 4m<sup>2</sup> per prisoner but they were reserved for privileged prisoners, several of whom held the keys granting access to the various wings and facilities in the closed sections.

64. The self-contained semi-open unit consisted of single storey buildings on three sides of a large open square with trees and grass. A wall encircled the unit. At the time of the visit there were 101 prisoners accommodated in eleven rooms, most of which were overcrowded - for example, 8 persons in 19.5m<sup>2</sup>. The buildings were dilapidated and there was evidence of water penetration throughout; in one room there was a gaping hole in the roof and holes in the walls, thus prisoners were exposed to the vagaries of the weather (rain and cold). The rooms were infested with cockroaches, as witnessed by members of the delegation. Behind the building, below the windows of the accommodation, was an open sewer with faeces and foul effluent all around. The effluent flowed into a cultivated vegetable patch.

The open unit outside the prison walls, once a model of prison architecture, has been allowed to deteriorate since it was opened in 1984. The building, accommodating some 169 prisoners at the time of the visit, was now in an advanced state of decay, the plumbing was broken and there was a stench of drains and rotting food. Improvised electrical wires criss-crossed the corridors. The bedding was torn and dirty. In the middle of the kitchen was a blocked drain emitting a foul smell; the dining-room was filthy and there were no plates or cutlery. The showers did not work; there were only two basins with working taps and the three floor-level toilets stank. Prisoners returning from working with cattle, their clothes filthy, had no clothes to change into and no suitable means of washing themselves.

In contrast, the women's unit (cf. paragraph 52, CPT/Inf (2001) 20) was generally in a decent state of repair. The major complaint concerned the open sewers adjacent to the accommodation area.

More generally, prisoners throughout the establishment complained about the lack of hygiene products and detergents, the fact they had to buy their own personal lockers and supply their own sheets and bedclothes.

65. To sum up, most of the accommodation blocks have been allowed to fall into a state of disrepair and insalubrity, when it would have taken little effort by staff and prisoners, with minimal resources, to have maintained them in a clean and decent state. The lack of attention and care was already evident in the visible deterioration of the recently renovated wings of the closed section of the prison.

The decision to deprive someone of their liberty entails a correlative duty upon the State to provide decent conditions of detention. 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 (a minimum of 4m<sup>2</sup> per prisoner in multi-occupancy living quarters), 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 and 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.

66. The CPT has noted that the new LES sets out clearly the standards required for the accommodation of prisoners; rooms must be “appropriately equipped and constructed with the necessary ventilation and sufficient natural light” (Article 102) and “the premises where convicts live and work therein must have the needed sanitary and hygienic installations and there must be provided also other conditions for maintaining personal hygiene” (Article 103 (2)). The Law makes provision for the “supply and regular laundry of serviceable bedding” (Article 107) and “toilet articles” (Article 108). It also states that no more than five prisoners may be accommodated in one room (Article 104 (3)).

The Law was not being implemented correctly in any of the prisons visited.

67. In the light of the above, **the CPT recommends that:**

- **immediate steps be taken to devise a phased programme to reduce the occupancy levels in the multi-occupancy dormitories to ensure a minimum of 4 m<sup>2</sup> per prisoner;**
- **immediate steps be taken to render Idrizovo Prison safe and hygienic through *inter alia* removing the open sewers, repairing the sanitary facilities, the provision of sufficient detergent and hygienic products, instituting a preventive health care programme that emphasises cleanliness, replacing decrepit mattresses, furnishing clean bedding, eradicating the infestation of cockroaches and other vermin, replacing broken window panes and repairing the floors and roofs, ensuring adequate artificial lighting in all living areas, providing all prisoners with a possibility of having access to a personal lockable cupboard at no charge, etc.**

**The Committee would like to receive a list of the concrete measures taken by the authorities, further to the above recommendation, for each of the accommodation blocks in Idrizovo Prison.**

**Further, the Committee would like to receive a detailed timetable for the planned renovation of the accommodation units in Idrizovo Prison, starting with Wing B of the closed section.**

68. The delegation also received numerous complaints about the food at Idrizovo and was able for itself to observe both the meagre portions and the inadequacy of the diet. An inspection of the kitchens, located in the women’s unit, revealed that the purported daily menu did not tally with what the prisoners were actually being served. It was evident from the storerooms that the cooks were not being provided with sufficient quantities of food, in particular meat, to be able to conform with either the legal minimum required or the daily menu as prepared by the doctor and approved by the Director every fortnight. In the admission unit the delegation observed the servers having to add copious amounts of water to the yoghurt due to the insufficient quantity. Further, even the cooks were concerned about the quality of the food.

Moreover, the layout and hygiene within the kitchen were not conducive to ensuring that the food was prepared with due regard to cleanliness. Meals were prepared once a day, with the evening meal sitting in containers without appropriate covers for some five hours and breakfast overnight (16 hours). The meals were transported to the accommodation units in a dirty van in exposed canisters. Further, the preparation, cooking and cleaning all took place within the same limited space, which was not conducive to maintaining hygiene.

By letter of 15 June 2006, the Committee was informed that measures had been taken to improve the quality and quantity of food being prepared and served to prisoners in Idrizovo. This represents a positive first step which hopefully will be sustained in the future.

**The CPT recommends that the authorities ensure all meals correspond to the minimum legal norms and to the daily menu as prepared by the doctor and approved by the Director of Idrizovo Prison. The quality and quantity of the food being provided to prisoners should be routinely recorded and monitored on a regular basis. Further, all prisoners should be provided with plates and cutlery for eating.**

**Measures should also be taken to renovate and modernise the equipment in the kitchen including the physical separation of the areas between where the food is prepared and the dishes are cleaned.**

b. regime

69. As the CPT has stated previously, the aim should be to ensure that all prisoners, including those on remand, spend a reasonable part of the day (i.e. eight hours or more) outside their cells, engaged in purposeful activities of a varied nature: work, preferably with vocational value; education; sport; recreation/association. Proactive measures by the authorities are required, otherwise the prison system is likely to become an even greater breeding ground for criminality. As prisoners look forward to release into the community they need to be prepared for that life, to possess a degree of self-worth and to feel capable of leading a life away from crime. A regime which provides for varied activities is a vital component in the preparation for release, as well as being beneficial for the running of the prison.

70. The situation as regards the regime in the remand section of Skopje Prison remains dire. Inmates continue to be locked up for 23½ hours a day in cramped conditions for periods of up to two years. No sport, cultural or educational activities of any sort were offered to inmates despite the fact that the prison has at its disposal two football pitch sized exercise yards. Section 194 (1) of the Code of Criminal Procedure foresees a legal minimum of two hours of outdoor exercise every day and yet inmates were being offered a mere 15 to 20 minutes. In Tetovo Prison remand prisoners were only getting outdoor exercise of 30 minutes three times a week. The CPT reports on the visits in November 2002 and July 2004 recommended that the authorities ensure a minimum of one hour of outdoor exercise per day for all inmates on remand. The authorities have made no attempt to comply with this recommendation, or with their domestic legislation, to date.

**The CPT calls upon the authorities to take the necessary steps, without any further delay, to institute a regime permitting all remand prisoners to be offered a minimum of one hour of outdoor exercise every day.**

**Moreover, the CPT reiterates its recommendation that steps be taken to provide educational, cultural and sports activities for remand prisoners with a view to enabling them to spend a reasonable part of the day outside their cells.**

**In addition, specific steps need to be taken to ensure juvenile inmates are offered educational and recreational activities, which take into account the specific needs of their age group. Physical education should form a major part of that programme (see also Section D, paragraph 122 below).**

71. In Idrizovo Prison there was no worthwhile regime. Only about 70 prisoners were occupied in the workshops (woodcarving, furniture making, motor maintenance, etc.), where the health and safety conditions were deplorable; in one of the workshops a part of the roof had recently caved in crushing the tea-cabin. Further, many of the prisoners had not been paid for months and when paid only received a third of what was due to them. As the incentives for work were few, productivity was minimal.

The rest of the prison population spent the day in idleness. For those prisoners in the 'geriatric', semi-open and admission units there was a possibility to spend a large part of the day out of doors. However, for those in the closed sections the vast majority were confined to their wings and only went outside for an hour a day.

Prisoners in the closed units in Skopje and Štip Prison were offered no activities at all - television was the sole distraction - and, in Skopje, they benefited from only 20 minutes of outdoor exercise every day. In Tetovo Prison, sentenced prisoners had access to a large courtyard (which included an indoor area for television and table tennis) for much of the day and where sports and recreational activities could take place; however, there was no organised work apart from cleaning.

72. The Law on Execution of Sanctions, which entered into force in January 2006, clearly states that prisoners should be provided with work (Articles 47 and 113 to 122), education (Articles 135 to 137) and sport and leisure activities (Articles 138 and 139). Also, all prisoners should spend "at least two hours daily outside the closed premises" (Article 112). Moreover, Articles 154 and 155 of the Law provide a framework for the progression of prisoners to institutions or units within an establishment of a more open type. Suitability for such progression is assessed "depending upon the results of their education, behaviour, participation in work."

The declared aim of imprisonment in "the former Yugoslav Republic of Macedonia" is rehabilitation and reintegration into society. The means for achieving this are through developing personal responsibility, accepting the treatment offered in an active manner thus leading to re-education and the "development of positive character traits, attitudes and capabilities, that speed up the successful return to the society." (Article 37 of the LES).

73. However, the above-mentioned aim was not being met in any of the prisons visited, and in particular in Idrizovo Prison. There was an absence of any meaningful development of the use of prisoners' time due to the lack of work, sport, leisure or educational opportunities. As a consequence the system of leave, which became the sole focus of many prisoners' aspirations, no longer formed part of the programme of reintegration into society but was perceived as a gift of the authorities (see paragraph 95).

**The CPT recommends that the relevant authorities take the necessary measures to ensure that all prisoners in Idrizovo Prison and the closed sections of Skopje and Štip Prisons are offered activities of a purposeful and diverse nature, in order to comply with the basic aims of imprisonment.**

**The CPT wishes to receive a detailed list and timetable of the various activities (recreational, sport, educational, work) being offered to the prisoners in Idrizovo, broken down by the various accommodation units. It also wishes to receive confirmation that all prisoners in the closed sections of Idrizovo and Skopje Prisons are offered a minimum of two hours of outdoor exercise every day, as stipulated in the LES.**

## **5. Health care**

### **a. introduction**

74. The CPT considers it important that prison health care should be aligned as closely as possible with the mainstream health care provision in the community. Further, in its experience the most effective manner to assure both an equivalence of care and the necessary independence of the service is to place responsibility for prison health care under the Ministry of Health.

**The CPT would like to receive the comments of the authorities on this matter.**

75. As stated previously by the CPT, 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 ("equivalence of care"). 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.).

**These precepts should be clearly laid down in law.**

76. The findings of the delegation during the 2006 visit illustrate, all too vividly, that the health care services in all the prisons visited cannot be considered as acceptable. More specifically, many of the CPT's previous recommendations concerning issues such as staffing, medical screening upon admission, medical confidentiality and health-care policy concerning somatic, psychological and/or psychiatric care have not been implemented by the authorities of "the former Yugoslav Republic of Macedonia"<sup>38</sup>.

**The CPT recommends that the authorities urgently review the general state of the health care services in prison establishments, so as to meet the "equivalence of care" norm. Improving health care in prison will necessitate *inter alia* the hiring of additional qualified medical staff.**

77. In the course of the visit, the delegation requested that a number of prisoners should be transferred from Idrizovo Prison to a psychiatric hospital for assessment, placement and treatment as prison was not a suitable place for their mental and physical wellbeing. Further, prison staff were incapable of looking after them. The persons in question, as well as others proposed by the director of the establishment, were subsequently transferred to an appropriate psychiatric institution.

The fact that action only took place following the intervention of the CPT would suggest that the existing domestic mechanisms are not operating effectively - indeed, the delegation heard allegations that requests for transfer to psychiatric establishments were not being dealt with in an expeditious manner by either the courts or the Ministries of Health and Justice. For instance, the Skopje Central Psychiatric clinic recommended in May 2006 that one prisoner, F.V., be transferred to a psychiatric establishment. Yet, three months later he remained in Idrizovo Prison.

**The CPT recommends that a review be carried out of the procedures for transferring prisoners suffering from psychiatric disorders to an appropriate institution for assessment. Further, it would like to receive information about the treatment presently being afforded to the person mentioned above.**

78. More generally, the principle of equivalence of care implies that a decision relating to the medical care of a prisoner lies with the doctor. If a doctor recommends hospitalisation or specialist medical care outside of the establishment in question, it is the responsibility of the prison authorities to ensure that the necessary arrangements are made so that the required care can be provided promptly. All too often the delegation came across cases of unacceptable delays in the provision of somatic care. Investigative judges and the prison authorities appeared to be overruling the medical opinions of the doctors and denying the possibility of prisoners to obtain the medical treatment they required.

**The CPT recommends that the authorities take the necessary measures, including amending the relevant legislation, to ensure mechanisms are in place to guarantee the provision of somatic care in line with the equivalence of care principle.**

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<sup>38</sup> See CPT/Inf (2001) 20, paragraphs 66 to 68, CPT/Inf (2004) 29, paragraphs 52 and 53, and CPT/Inf (2006) 36, paragraphs 55 to 58.



b. health care resources

79. The health care staff resources in Idrizovo Prison consisted of a doctor, a dentist, four nurses and two medical technicians, all of whom worked from 8 a.m. to 4 p.m. on weekdays; there were also two nurses working in the “methadone unit”. The general practitioner was aided by a psychiatrist, who also worked at the Educational-Correctional Institution in Skopje. A practicing psychiatrist visited the prison four hours per week (although not every week according to the registers) and there were also visits by a gynaecologist and by an ophthalmologist periodically<sup>39</sup>. Seven prisoners assisted the medical team and they were charged with providing basic medical care and with distributing medicines in the evenings and during weekends.

The general practitioner and two of the nurses worked on monthly contracts, which not only meant they had little job security but also resulted in them receiving no pension or health care insurance. Providing decent working conditions for qualified staff is essential.

80. The health care team at Skopje Prison comprised two doctors (one of whom was appointed in mid-May 2006) and two nurses, with a psychiatrist visiting once a week. The doctors and one nurse worked on weekday mornings only and the other nurse worked on weekday afternoons and every second Saturday morning. During the nights and weekends prison officers distributed the medication and, if medical assistance was required, the emergency services would be called.

The delegation noted that many prisoners continued to receive medication for several months after it was first prescribed upon their entry into the prison, without any subsequent examinations as to whether such medication was necessary. Further, as witnessed by the delegation, there was no control to verify whether inmates were taking the medication provided (some were collecting it over the months), or how much medication was being distributed to each prisoner.

81. There was no health care service to talk of at Tetovo Prison, where a contract with a local clinic meant that a doctor visited the prison twice a week for a couple of hours - usually Tuesday and Friday. In the interim, the prison staff administered the medication and they also had access to the medical files.

A similar situation prevailed in Štip Prison, where a doctor visited the prison for a couple of hours per week. For the rest of the time the prison staff catered to medical needs.

82. The existing staff resources of the health care team at Idrizovo Prison were patently insufficient for a prison population of 1,200, of whom 108 were in the prison infirmary at the time of the delegation’s visit. As a result, it was not surprising that prisoners were performing tasks, such as the distribution of medicines and the provision of first aid, which are properly those of a nurse. Moreover, the delegation received many complaints from prisoners about the problems of access to the health care service, and a lack of care by the medical staff. The delegation was able to witness a number of incidents where prisoners had to assist persons having epileptic fits and seizures as the medical team could not cope, and such seizures were a daily occurrence.

Further, the material conditions of the medical facilities at Idrizovo were both inadequate

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<sup>39</sup> The last visit by the ophthalmologist was on 16 December 2005 (6 months prior to the delegation’s visit).

and in a state of neglect and dilapidation, which rendered them unsafe. The facility needs to be completely renovated and re-equipped or closed down.

83. The provision of adequate levels of qualified health care staff is a prerequisite for implementing a proper health care strategy in prison, capable of catering to the specific medical needs present within a prison population.

**In this connection the Committee recommends, as an initial measure, that steps be taken immediately to ensure:**

- **at Idrizovo Prison, the recruitment of another full-time general practitioner and of a full-time psychiatrist and at least four additional qualified nurses, one of whom should be a qualified mental health nurse;**
- **at Skopje Prison, the recruitment of at least two additional qualified nurses, one of whom should be a qualified mental health nurse;**
- **at Štip Prison, the recruitment of at least a half-time general practitioner and one full-time nurse;**
- **at Tetovo Prison, an increase in the time spent by the general practitioner at the establishment and the recruitment of one full-time nurse.**

Further, the CPT recommends that a detailed needs assessment be carried out in Idrizovo Prison to determine the precise requirements in terms of health care staff, facilities and equipment. The results of the needs assessment should be communicated to the Committee, along with a plan for taking the necessary measures.

**Moreover, steps should be taken to ensure that prisoners are never involved in the distribution of medicines or given access to prisoners' medical files.**

84. At present in Idrizovo Prison, in the event of an emergency requiring medical assistance after 4 p.m. on weekdays or during the weekends, inmates are transported in a prison vehicle to the State Hospital in Skopje where the establishment has a six-room unit with some nine beds. In fact, as the delegation discovered, no medical personnel were present on the unit, with the staffing being assured by a prison officer assisted by an inmate with rudimentary first aid skills. Prisoners were brought from throughout the country to the hospital for treatment and operations, and were subsequently placed in the unit during the recovery phase before being sent back to prison.

The material conditions of the unit were totally unacceptable for a medical setting, being dirty, humid and in a state of advanced dilapidation. The delegation was informed that the building would be demolished and a new one constructed, with the prison unit housed temporarily elsewhere within the hospital.

**The CPT would like to receive confirmation that the prison medical unit is no longer housed in the building in service during the 2006 visit; further, it would like to receive information on the future facility to accommodate the unit. It also recommends that a nurse be employed in the unit on a full-time basis.**

85. The findings of the delegation in the course of the visit also highlighted the fact that in Idrizovo and Skopje Prisons there was a lack of coordination or consultation among the various medical staff. The smooth operation of a health care service presupposes that doctors and nursing staff are able to meet regularly and to form a working team with the authority of a senior doctor in the service. **The CPT recommends that in Idrizovo and Skopje Prisons a senior doctor be appointed as director of clinical services, who should also ensure a regular consultation process among the staff.**

c. medical screening on admission

86. The CPT is obliged to reiterate the importance of medical screening of prisoners on admission - especially at establishments which represent points of entry into the prison system. Such screening is indispensable, in particular in the interests of preventing the spread of transmissible diseases, suicide prevention and the timely recording of any injuries.

In none of the four prisons visited was medical screening systematically carried out on newly admitted prisoners on the day of, or even the day after, their arrival. Some prisoners had to wait for periods of a week or more for such screening, or until they were forced to see the doctor for a pain/illness. Further, in none of the prisons could the initial medical examination be considered as comprehensive, as recommended previously by the CPT in its 2002 and 2004 visit reports.

**The CPT calls upon the authorities to ensure that every newly-arrived prisoner is properly interviewed and physically examined by a medical doctor as soon as possible after his admission. Save for exceptional circumstances, that interview should be carried out on the day of admission, especially insofar as remand establishments are concerned. Such medical screening on admission could also be performed by a fully qualified nurse reporting to a doctor. The law should clearly reflect this requirement.**

Further, **the CPT would like to receive confirmation that the record drawn up by prison doctors following a medical examination of a newly arrived prisoner is in line with the CPT's previous recommendations.**<sup>40</sup>

d. medical confidentiality

87. The CPT has already addressed the question of the systematic presence of prison officers during medical examinations in prison<sup>41</sup>, and in their response the authorities had indicated that the recommendation made would be implemented. However, the findings from the 2006 visit reveal that there has been no progress in this regard.

While special security measures may be required during the medical examination of a prisoner when medical staff perceive a threat in a particular case, there can be no justification for prison officers being *systematically* present during such examinations; their presence is detrimental for the establishment of trust and of a proper doctor - patient relationship and is usually unnecessary from a security standpoint. Moreover, the presence of security staff may well deter prisoners from providing accounts of the origins of their injuries.

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<sup>40</sup> See CPT/Inf (2004) 29, paragraph 53 and CPT/Inf (2006) 36, paragraph 57.

<sup>41</sup> See CPT/Inf (2006) 36, paragraph 58.

In addition, it is essential that the principle of confidentiality applies equally to medical files, the keeping of which should be the doctor's responsibility. When not being consulted, such files should be locked away in a place to which neither prison staff nor prisoners should have access. Moreover, patients' injuries and diseases should be properly recorded in the medical files - in Štip Prison the inmates did not even possess individual medical files.

**88. The CPT reiterates its recommendation that steps be taken to ensure that medical confidentiality is fully guaranteed in all prison establishments in "the former Yugoslav Republic of Macedonia". This implies that all medical examinations of prisoners should be conducted out of the hearing and - unless the doctor concerned requests otherwise in a particular case - out of the sight of prison officers.**

**Further, the CPT recommends that the authorities take additional steps to ensure that the confidentiality of medical data is respected and that all prisoners have a personal medical file, in which all relevant information is entered.**

e. professional independence

89. The duty of medical staff to care for their patients may often enter into conflict with considerations of prison management and security. This can give rise to situations which put the ethical standards of health care staff to the test. In this connection, the delegation heard many allegations that would cast doubt upon the professional independence of prison health care staff.

**In the light of the delegation's observations, the CPT recommends that both the management and doctors of all the prisons visited (as well as of other prisons in "the former Yugoslav Republic of Macedonia") be reminded that prison doctors' clinical decisions should be governed only by medical criteria.**

f. preventive health care

90. Further to the findings of the CPT's delegation, particularly at Idrizovo and Skopje Prisons, it is important to recall that the task of a prison health care service should not be limited to treating sick patients. It is also their responsibility - in conjunction with the competent authorities - to supervise catering arrangements (quality, quantity, preparation and distribution of food) and conditions of hygiene (cleanliness of clothing and bedding; access to running water; sanitary installations) as well as the heating, lighting and ventilation of cells. Work and outdoor exercise arrangements should also be taken into consideration. Prison medical services should also be concerned about mental hygiene, i.e. with preventing the harmful psychological effects of certain aspects of detention. Insalubrity, overcrowding, prolonged isolation and inactivity may necessitate either medical assistance for individual prisoners and/or general medical action vis-à-vis the responsible authority.

For instance, the prison health care service ought to ensure that educational information about transmissible diseases (in particular hepatitis, AIDS, tuberculosis, dermatological infections) is regularly circulated, both to prisoners and to prison staff. In none of the prisons visited was there any specific training for the staff or provision of information to the prisoners on this issue. The Committee considers that prison staff should be provided with ongoing training in the preventive measures to be taken and the attitudes to be adopted regarding HIV-positivity, and given appropriate instructions concerning non-discrimination and confidentiality. This would complement the existing voluntary blood testing project currently being run in Idrizovo Prison.

**The CPT recommends that a preventive health care policy be drawn up and introduced in all the prisons in “the former Yugoslav Republic of Macedonia”, in the light of the above remarks.**

g. drug related issues

91. In the course of its visit to Idrizovo Prison, the delegation was able to see at first hand the widespread use and trade in drugs within the prison. It also visited the “methadone unit” at Idrizovo Prison, opened at the end of March 2006, which was providing methadone therapy on a voluntary basis to some 190 prisoners. The delegation was concerned that such treatment was being provided to all addicts without any differentiation of the types of drugs they were taking. Further, there was no psycho-social support to accompany the methadone treatment.

The CPT recognises that providing support to persons who have drug-related problems is far from straightforward, particularly in a prison setting; there is no simple or single answer as regards the approach to be followed. However, although prison is not an ideal environment to address a person’s drug-related problem, admission to prison could be an opportunity to address such a problem and it is therefore important that suitable assistance is offered to all persons concerned; consequently, appropriate health care must be available in all prisons and not only in those establishments with special drug treatment centres. The assistance offered to such persons should be varied, combining genuine medico-psycho-socio-educational detoxification programmes with substitution programmes for opiate-dependent patients who are unable to stop taking drugs. The setting up of a drug-free wing in prisons for certain categories of prisoners, *inter alia* those having completed treatment programmes prior to or during imprisonment, might also be considered. All health-care staff and prison staff more generally should be given specific training on drug-related issues. Further, effective post-release care programmes should be put in place, in partnership with relevant community-based agencies.

**In the light of the above remarks, the CPT recommends that a comprehensive strategy be drawn up for the provision of assistance to all prisoners with drug-related problems, as one aspect of a national drugs strategy. Further, it recommends that the methadone therapy project in Idrizovo Prison should include psycho-social support and form an integral part of the above-mentioned comprehensive strategy.**

## 6. Other issues

### a. contacts with the outside world

92. As the CPT has previously stated, it is very important for prisoners, both sentenced and remand, to be able to maintain 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. The revised 2006 European Prison Rules make explicit reference to the importance of such contacts in sections 24.1 to 24.8 and 99.

93. As regards remand prisoners, the CPT made a number of specific recommendations relating to Skopje Prison further to its visit in July 2004<sup>42</sup>. Despite the authorities response that one visit per week of 30 minutes for remand prisoners would be instituted and that the conditions within the visiting room would be adapted accordingly, at the time of the 2006 visit no noticeable improvements had been made. Also, while the CPT understands that closed visiting arrangements may be necessary in some cases, they should not, however, constitute the rule.

**The CPT recommends that the authorities take the necessary steps to increase visit time for remand prisoners and improve the visiting facilities.**

In Skopje Prison a number of remand prisoners complained that the correspondence with their lawyers and with the European Court of Human Rights was being interfered with; this being a serious matter, the Minister of Justice assured the CPT's delegation that she would remind all prison directors of the inviolability of such correspondence.

94. As was previously the case, the new LES provides for the right of sentenced prisoners "to receive visits from members of their close family and, at the discretion of the institution's director, they may receive visits from other persons" (Article 144); visits may last up to 60 minutes (Article 148). Further, Article 153 provides for the possibility of conjugal or extended visits (i.e. unsupervised visits from a spouse or partner for up to two hours) and of home leave, as a reward for good behaviour and as part of the rehabilitation process.

At Idrizovo Prison inmates were being offered a one-hour supervised visit once a month. The visit took place in a large well-lit room, with a table and four chairs for each prisoner and his/her family. **The CPT invites the authorities to increase the number of visits for sentenced prisoners.**

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<sup>42</sup> See CPT/Inf (2006) 36, paragraphs 59 to 61.

95. As mentioned above (see paragraph 73), the delegation found that home leave had become the main focus of the aspirations of prisoners at Idrizovo, and that other aspects of 'rehabilitation and resettlement' were absent. However, the system of home leave was vehemently and almost universally denounced by the prisoners with whom the delegation met. Prisoners complained that the allocation of home leave, a discretionary right in law which had become an instituted practice in reality, was decided upon in an arbitrary and corrupt manner.

The LES states that prisoners may benefit from leave of up to fifteen days per year, with no more than three days being taken in a month. However, both staff and prisoners alike explained that home leave was organised along the basis of one weekend in three months for the closed section, once every two months for the semi-open section and once a month for the open section. Many prisoners alleged that home leave could be bought, and the delegation met a prisoner who explained in detail how he had paid a considerable sum of money in order to be granted home leave.

Home leave has become the sole goal for many prisoners, and is prized by all. Therefore, it is essential that home leave be administered in a transparent and fair manner, in accordance with the legal regulations.

**The CPT recommends that the rules governing home leave be clearly explained to all prisoners and that they be enumerated, in detail, in the House Rules. Moreover, a full investigation into the allegations of corruption pertaining to the granting of home leave should be instituted.**

96. The CPT's delegation received a number of complaints from foreign prisoners at Idrizovo about their limited visiting rights, especially as they were not eligible for home leave. In particular, several explained that despite the fact that their families, including children, could only afford to make the journey to Skopje every few months, they were still only granted a one hour visit. Enabling foreign prisoners to enjoy extended visits over a period of several days should be within the discretion of the director or laid down in the House Rules. **The CPT recommends that the authorities review the visiting rights of foreign prisoners so as to permit, in appropriate cases, an accumulation of visiting time.**

97. As regards telephone calls, the law provides that sentenced prisoners may be allowed to make such calls (subject to staff supervision in the closed sections). However, at the time of the visit to the closed sections in Idrizovo there were only three telephones (two of which were broken) for some 600 prisoners. **Additional telephones need to be installed. The CPT also invites the national authorities to investigate the possibility of granting remand prisoners access to a telephone.**

b. discipline and searches

98. The new LES provides, under Article 178, for the same range of sanctions for disciplinary offences as existed under the previous law; namely, warnings, restrictions of privileges, confiscation of a percentage of a prisoner's wages and the imposition of up to 15 days of solitary confinement. Most importantly, disciplinary measures may not be imposed without "proceedings" in the course of which the prisoner must be interviewed and his statement double-checked.

The new 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. Further, they must be examined by a doctor before the sanction begins (Article 179) and visited daily by a doctor and weekly by the institution's director (Article 181).

99. At Idrizovo Prison, the solitary confinement wing consisted of two corridors with 12 cells each, located on the ground floor of the closed section of the prison. The cells were all standard (10m<sup>2</sup>), with a fixed bed and a toilet and washbasin behind a partition; the artificial lighting and natural light were adequate and the ventilation sufficient. However, the call bells were all broken and as there were no officers permanently on duty in either of the isolation corridors, staff could not be contacted in emergencies. Further, prisoners in isolation were not offered a shower during their period of isolation nor were they offered their legal entitlement of one hour of outdoor exercise everyday - instead they were given some 20 minutes per day in the corridor outside their cells.

**The CPT recommends that the authorities take the necessary steps to ensure all prisoners in isolation are offered at least one hour of outdoor exercise every day and the possibility of taking a shower at least once a week (more frequently if the circumstances warrant, taking into account the European Prison Rules<sup>43</sup>). Further, all the cells should have call bells which work.**

100. As to the procedure for isolation, the delegation found that in too many instances prisoners were being placed in solitary confinement on the authorisation of the shift commander without any proper proceedings taking place. In this respect, the delegation was particularly concerned to learn about persons being summarily placed in solitary confinement for withdrawing from methadone therapy. In addition to the lack of a hearing, prisoners were not being examined by a doctor prior to being placed in isolation, as provided by law. In the light of the numerous allegations of routine beatings by prison officers prior to being placed in solitary confinement, the obligation to be seen by a doctor serves as an important safeguard against ill-treatment. Further, neither the doctor nor the director was fulfilling their statutory obligations by visiting the isolation wings on a daily and weekly basis, respectively.

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<sup>43</sup> See Section 19.4 of the revised European Prison Rules (Recommendation Rec(2006)2 of the Council of Europe's Committee of Ministers to Member States).



**The CPT recommends that the authorities guarantee that a fair hearing, in accordance with the law, be instituted for all persons accused of disciplinary offences, and that the procedures be explained in clear language in the House Rules. Moreover, a doctor and the Prison Director should visit persons in isolation, as prescribed by law.**

**Further, it would like to receive confirmation that when a prisoner decides to withdraw from methadone therapy, he will not be subject to a disciplinary measure.**

101. The delegation also received a number of complaints about the manner in which searches of prisoners' rooms and property took place; the night searches resulted in a prisoner being woken, stripped and his property overturned. While it is common for prison systems to have routines for searches, they should be carried out in a manner which respects, as far as possible, the dignity of prisoners. The CPT is also concerned that the searches in Idrizovo Prison were based almost entirely upon information received from privileged prisoners, who were being used as disciplinary and control intermediaries. Moreover, as a means of combating the use of, and trade in, forbidden substances, the searches were manifestly ineffective. In the course of their visit to the prison, members of the delegation saw mobile phones and a variety of electrical appliances being openly used and drugs exchanged in the presence of prison officers. **The CPT wishes to receive the comments of the authorities on the above remarks.**

c. complaints and inspection procedures

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

103. The formal system of complaints procedures remains largely the same as described in the 1998 visit report, except that the new law has reduced the time limits by half for the period by which the director of the institution and the Directorate of Prisons should respond to complaints (see LES, Articles 169 to 174). However, the delegation heard numerous criticisms about the lack of any functioning complaints system at Idrizovo, notably that letters to the director were never answered. Prisoners also alleged that the staff prevented the delivery of complaints and threatened them with recriminations if they made complaints. For instance, a number of prisoners stated that prison staff had warned them not to complain to the CPT's delegation as it was merely passing through whereas the prison staff would be dealing with them for always.

The lack of confidence in the complaints procedures is of concern to the Committee. Efforts need to be made to ensure that prisoners are clearly aware of their rights and are able to exercise them in a way that offers appropriate guarantees of independence, impartiality and thoroughness. If necessary, the relevant rules and regulations should be changed to ensure prisoners can make complaints to the appropriate authorities, both within and outside the prison, on a confidential basis.

**The CPT recommends the authorities take the necessary steps in the light of the above remarks.**

104. 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 new LES outlines, in the same manner as the previous law, a detailed framework for internal and external supervision of prisons. However, the system has not evolved since the time of the 1998 visit report<sup>44</sup> and clearly the precepts outlined in the first sub-paragraph above were not brought to the attention of all inspectorial authorities.

105. In the remand section of Skopje Prison it appeared that the judges only paid perfunctory visits every Friday, accompanied closely by the Director and other prison staff. Prisoners in all the institutions visited stated that they had never had a discussion with any visitor or judge out of sight and/or hearing of prison staff in the manner in which the CPT delegations operated. None of the supervisory bodies (Ministry of Justice inspectorate, Court supervision or State Commission) appeared to be performing their supervisory tasks with due diligence. At the time of the visit, it was too early to evaluate the effectiveness of the judge for the execution of sanctions as regards his/her new task of protecting the rights of the convicted person (see Article 36.1 of the LES).

**The CPT recommends that the authorities take the necessary steps to ensure that the various supervisory mechanisms operate in a professional, transparent and independent manner, taking due account of the precepts outlined in paragraph 104 above.**

d. deaths in custody

106. The CPT's delegation was informed that at Idrizovo Prison there were seven deaths in 2005 and four in the first quarter of 2006, and that at Skopje Prison two inmates had committed suicide in the same cell on 1 February 2006. Several of the cases raise issues of concern and should have been the focus of internal inquiries with a view to improving existing procedures.

For example, G.Z., who committed suicide by hanging himself with a bed sheet in Skopje Prison on 1 February 2006, had been waiting to be sent to a psychiatric hospital since November 2005, when the Court had sentenced him to 14 years imprisonment and ordered involuntary psychiatric treatment. Also, his cellmate had attempted to commit suicide on three previous occasions prior to this date.

These incidents highlight the flaws in the current system of self-harm/suicide prevention and the need for a fully fledged and effective prevention programme.

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<sup>44</sup> See CPT/Inf (2001) 20, paragraph 85.

107. Another case relates to the suicide of D.N. in an isolation cell at Idrizovo Prison on 16 July 2005. In interviews, staff and prisoners alike referred to this person as a quiet, model prisoner until March 2005, when his behaviour altered considerably and he became aggressive and unpredictable. Between 1 April and 16 July 2005, he spent most of his time in an isolation cell, accumulating four consecutive 15-day disciplinary sanctions of isolation followed, on 6 June 2005, by an exceptional disciplinary sanction of six months separation/isolation<sup>45</sup>. During his period in isolation he was taken twice to the Forensic Institute, once to the infirmary after an attempt at self-harm and was seen several times by a psychiatrist, the last being some eight weeks before his death, on 19 May 2005. The response to his altered behaviour appeared to be mainly disciplinary with no routine psycho-social support being offered. Moreover, placing someone in isolation for such prolonged periods can of itself heighten the risk of suicide.

The Committee is concerned that, in the wake of serious incidents such as a death, no action or inquiry is undertaken aimed at identifying possible means to improve the system of prevention in place (see also paragraph 47 above).

**The CPT recommends that the authorities institute a practice of carrying out thorough inquiries into deaths in custody with a view to learning lessons and improving operating procedures within the prisons.**

Further, such inquiries are necessary in order to provide the relatives of the deceased person(s) with relevant information concerning the circumstances of the death.

e. information

108. Nearly all the prisoners met by the delegation at Idrizovo Prison alleged arbitrariness in decision-making by the director and his staff, in relation to the granting of privileges or the imposition of sanctions. The fact that prisoners were not provided with any information about their rights, duties or obligations when they entered the prison or that changes in rules and practices were not communicated to them served to reinforce the perception of arbitrariness. No copies of the House Rules or notices about matters of importance were to be found anywhere within the prison, and different staff were providing prisoners with an inconsistent interpretation of the rules.

As the delegation explained to the authorities, the House Rules need to be published and distributed to all prisoners who enter the prison. Further, notices should be posted each time there are amendments to such rules as well as to highlight important aspects of the rights and duties of the prisoners. Information should also be displayed concerning the regime and opportunities for sport, recreational, cultural and educational activities. Communication between the prison authorities and the prisoners is an essential component of a well-functioning establishment.

**The CPT recommends that the authorities take the necessary steps in the light of the above remarks.**

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<sup>45</sup> In decision N° 14-2036/2 it was recorded: "he constitutes a serious threat for the security and the sanctions adopted and implemented had no effects on him". The measure was adopted under section 180, paragraph 1, of the previous Law on execution of sanctions. It was proposed by the governor and adopted by the Director of the Directorate of Prisons.

f. video surveillance

109. The delegation noted that two of the remand cells in Skopje Prison were fitted with video surveillance cameras, allowing prison staff in the duty station (which also serves as the entrance to the remand and closed sections of the prison) to monitor the movement of the persons detained in these cells. The CPT is concerned that there did not appear to be any regulations governing the circumstances under which such surveillance could be authorised. Given the intrusive nature of such constant monitoring it is necessary to have a comprehensive regulation that provides *inter alia* for the grounds on which in-cell video surveillance may be authorised, the procedure to be followed and the criteria to be used; in addition, authorisation should be in respect of individual cases and should be subject to regular and frequent review. Moreover, video surveillance should not interfere with or replace the frequency or quality of time during which staff would normally interact with an inmate. It is also essential that the monitoring of the video cameras should take place in a designated room by assigned officers, and not in a 'public' place, and that events be recorded in a logbook at regular intervals.

**The CPT recommends that the authorities take the necessary steps in the light of the above remarks.**

110. In the context of the strategic plan for prisons referred to in paragraph 39 above, **the CPT considers that investing scarce resources in installing close-circuit television surveillance equipment should not be at the expense of tackling some of the basic problems highlighted above** (see paragraphs 60 to 68).

## **D. Educational-Correctional Institution**

### **1. Preliminary remarks**

111. The Educational-Correctional Institution was visited previously by the CPT in 1998, 2002 and 2004<sup>46</sup>. On 24 May 2006, the Institution held 20 male children and young adults<sup>47</sup> between the ages of 14 and 23, on whom the court had imposed an educational-correctional measure.

As a rule, children should never be placed in detention together with adults (18 years and older). To accommodate juveniles and unrelated adults together inevitably brings with it the possibility of domination, exploitation and inter-prisoner violence (cf. paragraph 119).

112. Nearly five years after the Institution's dislocation from Tetovo, the CPT's delegation once again found that the Institution remained in inadequate 'temporary' premises at Skopje Prison.

A number of the shortcomings outlined below are, to a large extent, linked to the Institution's inadequate location, as the CPT has made clear in its previous visit reports. The lack of action implies that the authorities are not treating this serious matter with the urgent attention it requires.

**The CPT once again calls upon the authorities to attach a very high priority to finding suitable alternative premises for the Educational-Correctional Institution. Those premises should provide adequate separation between children and young adults subject to an educational-correctional measure.**

113. However, in the CPT's view, the Institution's most serious flaws (see paragraphs 114 to 119, 121 and 123) are not strictly linked to the inadequate location. Therefore, they must be urgently addressed without waiting for adequate premises to be found.

### **2. Ill-treatment and discipline**

114. The CPT's delegation received numerous allegations of the physical ill-treatment of inmates at the Institution by several members of the custodial staff. The allegations consisted mainly of slaps, punches and beatings with a rubber-coated truncheon. Certain persons interviewed also alleged that they had been chained to a bed, to a radiator or to the staircase railing, for several hours at a time.

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<sup>46</sup> See respectively, CPT/Inf (2001) 20, paragraphs 49ff., CPT/ Inf (2004) 29, paragraphs 39 ff. and CPT/Inf (2006) 36, paragraph 62.

<sup>47</sup> In addition, four were on leave and one in hospital, a further seven having escaped or not returned from leave.

115. When the CPT first visited the Educational-Correctional Institution in 1998 in its original location in Tetovo, no allegations of ill-treatment were heard. However, the Committee had recommended that the authorities put an end to the practice of custodial staff openly carrying batons<sup>48</sup>. During the visit in 2006, staff interviewed by the delegation denied the use of batons, affirming that this was prohibited. Nevertheless, the delegation discovered a rubber-coated truncheon hidden from view in a staff room.

116. The CPT's delegation heard two separate allegations concerning an incident on the evening before its visit to the Institution, when a guard had allegedly beaten a juvenile in his bedroom with a rubber-coated truncheon. The delegation's medical doctor examined the juvenile and observed, on the postero-lateral aspect of his right shoulder, two parallel oval-shaped bruises, light red-violet in colour, with a double "tramline" appearance, one below the other (5 x 2 cm). These injuries were consistent with the allegations of ill-treatment. The allegations were also supported by video footage showing the guard in question carrying a truncheon when entering the room at the relevant time. The delegation viewed this footage together with the Director, who immediately assured the CPT's delegation that he would investigate the matter and take appropriate action.

The CPT's delegation made an immediate observation in this regard (see paragraph 8 above), requesting the results of the investigation of the alleged ill-treatment and information on the measures taken to prevent future ill-treatment. In response, the Ministry of Justice informed the CPT that a disciplinary procedure had been initiated, which - taking into account all the "mitigating and aggravating" circumstances of the case, in which the official used the rubber-coated truncheon - resulted in the official being fined 15% of his salary for six months' duration for a violation of his professional duties.

The CPT notes that action has been taken. This is certainly welcome, as a lack of action in such circumstances will engender a culture of impunity. However, the CPT is not convinced that the penalty applied in this particular case can be considered as proportional to the gravity of the offence and as sufficient from a preventive standpoint. **The Committee would like to be informed whether this case was brought to the attention of the competent prosecutor: if so, what was the outcome? if not, what was the reason for non-referral to the prosecutor?**

**Further, in the CPT's view, it would not be appropriate for a prison officer who commits such an act to continue to work in direct contact with children and young adults in an Educational-Correctional Institution.**

117. As regards discipline, the Committee considers that, **in the interest of the prevention of ill-treatment, all forms of physical chastisement must be both formally prohibited and avoided in practice.** As the CPT already recommended following its visit to the Institution in November 2002<sup>49</sup>, **inmates who misbehave should be dealt with only in accordance with the prescribed disciplinary procedures.**

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<sup>48</sup> See CPT/Inf (2001) 20, paragraph 50.

<sup>49</sup> See CPT/Inf (2004) 29, paragraph 41.

118. In the light of the remarks in paragraphs 113 to 116 above, **the CPT calls upon the authorities to take effective action to put an end to violence towards children and young adults at the Educational-Correctional Institution, including:**

- a) **a clear message to staff of zero tolerance of any form of ill-treatment, which if detected will be the subject of disciplinary and/or criminal proceedings ; and**
- b) **measures to ensure that staff do not have recourse to batons or other non-regulation objects for the purpose of ensuring discipline.**

Further, **the CPT wishes to receive confirmation that all such objects have been effectively removed from the Institution.**

119. Both inmates and staff at the establishment referred to frequent incidents of physical violence among inmates. Several inmates alleged that custodial staff would, at times, do nothing to stop such incidents or would even actively encourage them. Reference should be had to the remarks made by the CPT in paragraph 53 above, and the recommendation (in paragraph 54) to develop a national strategy to tackle inter-prisoner violence. Such a strategy must take into consideration the vulnerability of juveniles and the special duty of care owed to them. **The CPT recommends that appropriate measures be taken in the light of these remarks.**

### **3. Staffing issues and regime**

120. The custody and care of children and young adults deprived of their liberty is a particularly challenging task. The staff called upon to fulfil that task should be carefully selected for their personal maturity and ability to cope with the challenges of working with - and safeguarding the welfare of - this age group. More particularly, they should be committed to working with young people, and be capable of guiding and motivating the children and young adults in their charge. All such staff, including those with purely custodial duties, should receive professional training, both during induction and on an ongoing basis, and benefit from appropriate external support and supervision in the exercise of their duties.

121. The 40 members of custodial, educational and support staff employed at the Educational-Correctional Institution appeared to be adequate in number, considering the size of the Institution. However, the CPT would highlight evident signs of the lack of an efficient management of the educational staff, who appeared to be either absent or idle. Indeed 15 staff were employed for activities, but not one activity took place on the day of the delegation's visit.

It was clear from discussions with the management of the Institution that staff were demotivated due to the inadequacy of the provisional premises, to which the majority were required to commute from their residences in the area of Tetovo. Further, the Institution's administration, comprising 8 members of staff including the Director, was still located in Tetovo.

122. One of the delegation's most disturbing findings at the Institution was the severe lack of activities offered to the children and young adults in its charge. One hour of education was scheduled four times per week, with such classes often cancelled and, at any rate, suspended for the entire summer. Sport activities were sporadically organised on the same field as the one used by the prisoners in the open/semi-open unit of Skopje Prison.

Although a lack of purposeful activity is detrimental for any prisoner, it is especially harmful for juveniles, who have a particular need for physical activity and intellectual stimulation. Juveniles deprived of their liberty should be offered a full programme of education, sport, vocational training, recreation and other purposeful activities. Physical education should constitute an important part of that programme.

123. The aims of a correctional facility such as the Institution, as laid out in the Law on the Execution of Sanctions<sup>50</sup>, are to provide positive educational, behavioural and vocational development, as well as the active use of leisure opportunities and the maintenance of family and positive social ties. Where the facility is unable to provide for the inmates' education, they must be allowed to receive education outside the establishment<sup>51</sup>. Clearly such a facility should avoid the exposure of juveniles to the potentially harmful effects of prison. In the light of the delegation's findings, however, the Institution's socialisation purposes were far from being met. Indeed, the CPT would suggest that the lack of activities at the Institution could be said to amount to treatment that did not respect the dignity of inmates subjected to an educational-correctional measure.

**The CPT recommends that the management of the Educational-Correctional Institution and the national authorities draw up a detailed action plan to remedy the clearly unacceptable situation described in paragraphs 121 and 122 above, including both short and long-term goals, if necessary making use of educational facilities external to the Institution, as provided for by Article 311, paragraph 2, of the Law on the Execution of Sanctions. In addition, the CPT would like to receive a timetable of the educational, sporting and other activities currently being offered to the children and young adults every week.**

#### **4. Conditions of detention**

124. The seven bedrooms were slightly cramped; for instance, a room accommodating six inmates provided 3m<sup>2</sup> living space each. Nevertheless, given the large proportion of time spent out of the rooms, and as the rooms, furniture and bedding were clean and in good repair, with adequate natural and artificial lighting and ventilation, the sleeping area did, on the whole, provide acceptable conditions.

However, the sanitary facilities were filthy and emanated a powerful stench. Most of the children and young adults complained to the delegation that they were usually not allowed access to the toilets after 10 p.m. and they would be physically chastised by guards for breaching this rule. It goes without saying that staff should never physically chastise prisoners. Furthermore, it is unacceptable that prisoners are not afforded ready access to sanitation at all times. **Urgent action should be taken to rectify these failings.**

125. The common areas, in which the children and young adults were allowed to spend large portions of the day, included a dining/activity room (with television set and a small collection of books), an adjoining workshop, an outdoor sitting area (partly covered) and a football field. All of these facilities were in poor condition, with maintenance clearly suffering from the lack of concern for the Institution's 'temporary' premises.

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<sup>50</sup> See Article 314.

<sup>51</sup> See Article 314, paragraph 2.



The CPT had already pointed out, following its visits in November 2002 and July 2004<sup>52</sup>, that it is unacceptable that children and juveniles associate with adult prisoners. During the visit in 2006, the CPT's delegation once again observed in the outdoor area the problem of inadequate separation of the children and young adults in the Institution from the adult population in the open/semi-open unit for sentenced prisoners. Moreover, visits received by inmates were organised in the adult sentenced prisoners' room used for this purpose, resulting in further contacts with the adult prison population.

**The CPT calls upon the authorities to take urgent steps to ensure:**

- **a minimum of 4m<sup>2</sup> per inmate in multi-occupancy accommodation;**
- **that sanitary facilities are maintained to an appropriate level of hygiene;**
- **that facilities for recreational and other group activities are adequately maintained;**
- **that juveniles do not associate or come into contact with adult prisoners.**

**The basic conditions for detention of juveniles must be met immediately. It is untenable to delay making urgent improvements and renovations in the hope of the Institution's relocation to more suitable premises.**

#### **5. Health care and confidentiality**

126. A doctor was supposed to visit the Institution on alternate days. However, his actual schedule - considering his other duties at Idrizovo prison - was to visit the Institution every third day. Medical examinations were often carried out a week after an inmate's admission to the Institution and patients' files were freely accessible to non-medical staff.

Thus it would appear that health care and medical confidentiality at the Institution suffered from similar problems to those observed in the prison establishments. The remarks made above (see paragraphs 76 to 88) in respect of staffing, medical screening, confidentiality and equipment apply equally in respect of the Educational-Correctional Institution. **The CPT recommends that the authorities review the provision of health care provided at the Institution and take the necessary measures, having regard to the remarks made above.**

#### **6. Complaints and inspection procedures**

127. An important safeguard against ill-treatment within an establishment is the availability of effective and safe avenues of complaint, and a system of frequent and unannounced visits by an appropriate supervisory body. The CPT's delegation was pleased to note that many children and young adults at the Educational-Correctional Institution were confident that the Director would meet with them if they wished and would assist them to the extent possible. **The CPT's remarks and recommendations at paragraphs 102 to 105 with regard to complaints and inspection procedures apply equally to places where children and young adults are deprived of their liberty, such as the Educational-Correctional Institution.**

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<sup>52</sup> See CPT/Inf (2004) 29, paragraph 55, and CPT/Inf (2006) 36, paragraph 62, respectively.

## E. Demir Hisar Psychiatric Hospital

### 1. Preliminary remarks

128. In the course of the 2006 visit, the CPT visited Demir Hisar Psychiatric Hospital<sup>53</sup>, which serves the south-west of the country. With a capacity of 480, the hospital was accommodating 414 patients at the time of the visit<sup>54</sup>, 61% of patients had recently been diagnosed as schizophrenic and 22% with learning disabilities (with no diagnostic separation of such groups between wards); the Hospital had had five directors over the previous six years.

**The CPT recommends that the authorities review the policy of holding the mentally ill together with the learning disabled.**

129. Important reforms in the area of mental health are under way in “the former Yugoslav Republic of Macedonia”, in particular through the de-institutionalisation of psychiatry and efforts to support psychiatric care in the community. The CPT welcomes the entry into force, on 8 June 2006, of the Law on Mental Health<sup>55</sup>, the stated aim of which is to secure the protection of the rights of persons with a mental disease. The efficient implementation of the Law must be ensured through timely regulations and awareness-raising activities targeting especially mental health care professionals and beneficiaries, as well as the wider community. **The CPT would like to receive information regarding progress in the implementation of the Law on Mental Health.**

The Committee is particularly pleased to note the introduction of specific provisions to prohibit and punish ill-treatment by staff in mental health care institutions<sup>56</sup>. However, the CPT is concerned to note that, in addition to the penalties imposed on the individual, it would appear that the mental health care institution would incur the mandatory penalty of temporary closure for a period between six months and two years<sup>57</sup>. In the CPT’s view, such a mandatory penalty would be excessive if it were to apply to the less serious offences listed in Article 40 of the Law. The disproportional nature of the sanction may result in the courts being discouraged from applying the provisions. **The CPT requests the comments of the national authorities with regard to this issue.**

The CPT also took note that clinical or experimental research on psychiatric patients (which the delegation was informed had been occurring at the hospital) is now expressly prohibited under the Law on Mental Health<sup>58</sup>, regardless of the patient’s consent. **The CPT requests information about the implementation of this provision.**

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<sup>53</sup> In 1998 the CPT only visited the forensic ward (see CPT/Inf (2001) 20, pp. 39 to 42).

<sup>54</sup> Of whom 50 were on leave. In addition, the Hospital facilitated the care of 70 outpatients in the Mental Health Care Centre in Prilep. Many of those patients had previously been in-patients at the Hospital.

<sup>55</sup> Although the Law entered into force after the end of the CPT’s visit, recommendations in this report have been formulated also bearing in mind the new legislation. Reference is therefore made to it, where necessary (cf. paragraphs 147 to 153 on safeguards for patients).

<sup>56</sup> See Article 10 of the Law on Mental Health, Article 20, paragraph 1 and Article 40, paragraph 1, point 5.

<sup>57</sup> See Article 40, paragraph 3 of the Law on Mental Health: “In addition to the fine referred to in Paragraph 1 of this Article, the legal person shall be imposed a security measure “prohibition of operating for a period from 6 months to 2 years”.”

<sup>58</sup> See Article 20, paragraph 2.

130. In the context of the current reforms, the CPT supports the further development of mental health care centres, which are key to the move away from psychiatric institutions. Further to an invitation from the Ministry of Health to visit such centres, and encouraged by the hospital administration at Demir Hisar, the delegation paid a brief visit to the Prilep Mental Health Care Centre, which is closely linked to Demir Hisar Psychiatric Hospital. Housed in a small single-storey building, the Centre offered treatment benefiting from an impressive range of multidisciplinary clinical input. It provided appropriate support to 70 out-patients and their carers.

However, for such centres to be sustainable, they must be adequately resourced. The CPT is concerned to note that staff salaries had been outstanding for four months prior to the CPT delegation's brief visit to the Prilep Mental Health Care Centre. **The Committee requests updated information regarding the development of Day Care Centres throughout the country and confirmation that they are sustainable and not under threat of closure, e.g. through the non-payment of salaries.**

## **2. Ill-treatment**

131. In the course of the visit, the CPT's delegation heard numerous, consistent and credible allegations of ill-treatment of patients by staff, often in view of other patients. Some of the ill-treatment alleged, subsequently confirmed in interviews with staff members, consisted of verbal abuse and threats, pushing and slapping. Other alleged ill-treatment included punching, kicking and the use of wooden sticks, rods, a truncheon and flexible pipes or cable; some such items were found by the CPT's delegation on the hospital premises. These allegations concerned mostly auxiliary, but also clinical, staff on a number of wards.

No such allegations were received during the CPT's previous visits to psychiatric establishments, namely the 1998 visit to Demir Hisar Psychiatric Hospital's forensic section<sup>59</sup> and the November 2002 visit to Skopje Psychiatric Hospital<sup>60</sup>. The aforementioned allegations received during the 2006 visit suggest, therefore, a disturbing deterioration in the psychiatric context.

**The CPT recommends that measures be taken at managerial level in order to put an end to ill-treatment at the hospital. In particular:**

- (a) an unequivocal message of zero tolerance of ill-treatment of patients by staff must be issued, by appropriate means and at regular intervals. It must be made clear to staff at all levels that ill-treatment will be the subject of disciplinary and/or criminal sanctions as provided for under the new Law on Mental Health;**
- (b) the standard of recruitment, training and management of staff should be improved and staffing levels should be increased (see paragraph 144 below);**
- (c) a safe and independent system for complaints and inspections should be established, leading, where necessary, to appropriate sanctions (see paragraphs 151 and 152 below).**

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<sup>59</sup> See CPT/Inf (2001) 20, paragraph 88.

<sup>60</sup> See CPT/Inf (2004) 29, paragraph 61. The CPT's delegation did collect one allegation at Skopje Psychiatric Hospital, but it was considered exceptional in what appeared to be quite relaxed staff-patient relations.

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

132. The hospital is located on a large plot of land with a guarded entrance and two main closed buildings accommodating the majority of the patients. The three wards for female patients were situated in a three-storey building, with acute and chronic patients<sup>61</sup> on the upper level (ward I), a mixed ward (VII) for geriatric and chronic patients on raised ground level, and geriatric patients (ward VIII) at basement level, where the building's dining room was also located. Four wards for male patients were housed in a U-shaped two-storey building containing a secure garden accessible from ward VI, (accommodating chronic patients). Ward III accommodated acute, ward IV geriatric and ward V a mixture of acute and chronic patients.

Two more wards, the alcohol department (the only open ward) and the forensic ward, housed only men, whereas the "adolescent" ward (ward II), a more recent one-storey construction, had separate sleeping areas for female and male patients, who were mostly adult and acute.

A further building comprised the Rehabilitation Centre and the hospital management offices, with other small buildings housing the admissions unit, an EEG department, a laboratory, a pharmacy, a dental surgery, the kitchens and a canteen shop.

133. The CPT is pleased to note that the hospital accommodation, for the most part, offered adequate natural and artificial lighting and ventilation and had, by all reports, managed to provide sufficient heating to patients during the harsh winter of 2005 - 2006.

The CPT's delegation observed acceptable material conditions in the alcohol rehabilitation ward and the more recently constructed "adolescent" ward, which offered better quality accommodation and some personal decor to smaller groups of mostly acute patients. However, the other wards of the hospital were characterised by very poor material conditions; they were in a generally dilapidated state, suffering from overcrowding, with beds often close together, mattresses and bedclothes in a poor state of repair and cleanliness, and a substantial majority of rooms lacking personal decor. Virtually no personal lockable space was available to patients at the hospital.

134. Hygiene levels at the hospital fell far below what could be expected of a health care institution and in certain accommodation blocks presented a health hazard; toilets were blocked in the insalubrious sanitary facilities, many taps did not work (e.g. only two or three taps worked on wards accommodating up to 60 patients) and piles of faeces were on the floor in ward VII, on the toilet floor in ward IV and blocking a toilet in ward VIII; further, the hospital's mortuary was located in a room accessible from the corridor of ward VI.

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<sup>61</sup> Including the Hospital's only female forensic patient, under assessment, at the time of the visit.

Waterproof mattresses and pads for incontinent patients were either in insufficient supply or not available at all. This situation, combined with the stark conditions in some rooms - particularly in ward VIII, with two damp and malodorous adjoining rooms with a drain at the centre -, resulted in some patients living in conditions that could well be described as degrading.

135. The conditions in the forensic section were comparable to those found during the 1998 visit<sup>62</sup>, except that the number of patients had risen from 46 to 56<sup>63</sup>, thus heightening the cramped conditions in certain rooms. As in 1998, the ward was largely devoid of personal objects or decoration and had very few lockers for personal items. Taps were missing from the sanitary facilities.

The recommendations made in 1998 for improved living conditions<sup>64</sup> remain to be implemented; further, the CPT would point out that a secure garden or exercise area might usefully be established for patients in the forensic section.

136. Since the visit, the CPT was informed that ward VI would be taken out of use<sup>65</sup> due to its poor state of repair and hygiene. However, the CPT wishes to stress that the precarious conditions described above concern the majority of wards at the hospital, and not only ward VI.

137. The CPT's delegation found that food provided to patients at the hospital was sufficient in quantity but was lacking in quality, such as fresh fruit or vegetables.

As for clothing, a majority of patients wore pyjamas during the day. As the CPT already pointed out during its visit to the hospital in 1998, and again in its 2002 visit report concerning Skopje Psychiatric Hospital<sup>66</sup>, personal day-time clothing would encourage patients' sense of individual autonomy.

**138. The Committee recommends that appropriate measures be taken to improve the very poor material living conditions at Demir Hisar Psychiatric Hospital, in the light of the remarks in paragraphs 133 to 137 above. In particular, these measures should aim at:**

- **improving the state of repair and décor of the accommodation wards;**
- **increasing the living space per patient to an appropriate level, and providing each of them with a personal, lockable space, adequate day-time clothing and food of suitable quality;**

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<sup>62</sup> See CPT/Inf (2001) 20, paragraphs 92 and 93.

<sup>63</sup> Of these, three had escaped.

<sup>64</sup> See CPT/Inf (2001) 20, paragraph 92, recommending, in particular, the renovation of the forensic section's sanitary facilities and that patients be provided with a lockable space in which to keep their belongings.

<sup>65</sup> By letter of 20 June 2006 from the Ministry of Health, concerning action taken in response to the CPT delegation's immediate observations. The letter also included the findings and recommendations of an expert commission dispatched to the Hospital by the Ministry of Health, with the task of inspecting it in the light of the end-of-visit observations.

<sup>66</sup> See CPT/Inf (2004) 29, paragraph 72.

- **improving the state of repair of the sanitary facilities;**
- **ensuring that hygiene at the hospital is of a standard worthy of a health-care institution;**
- **providing adequate arrangements and equipment so that incontinent patients are cared for in a manner which is respectful of their dignity.**

**Further, the CPT wishes to be informed of the consequences for patients of the closure of ward VI** (details of the relocation of the 38 patients, including their new care arrangements, access to the secure exercise yard, staffing levels etc.), **which appeared to accommodate the hospital's more disturbed and agitated patients.**

#### **4. Treatment and care**

139. Treatment at the hospital consisted almost entirely of pharmacotherapy. Indeed no individualised treatment plans were in evidence in the patients' files, which generally contained very infrequent and sparse clinical notes. Although the Rehabilitation Centre offered varied occupational therapy opportunities, less than one sixth of patients use them and very little meaningful activity was available on the wards for those patients who could not attend the Centre<sup>67</sup>.

A central aim of a multidisciplinary treatment approach should be to foster in patients a greater sense of individual autonomy. To this end, patients should be provided with personal daytime clothing and a lockable space in which to keep their personal belongings (see also paragraphs 133 and 137 above). Further, all patients who are entitled to a pension or other state financial benefit should receive it.

**The CPT recommends that a more multidisciplinary treatment approach be adopted at the hospital, providing greater opportunities for psychological and occupational therapy, including on the wards. Following this approach, individual treatment plans should be drawn up for each patient, and progress regularly reviewed.**<sup>68</sup> The viability of instituting such an approach would clearly depend on adequate staffing levels and training (see section 5 below).

140. As for somatic treatment, patients clearly did not benefit from adequate dental care, despite the availability at the hospital of both equipment and staff. According to the register, over the six months prior to the visit, 26 patients had been seen, mostly for dental extractions, at the dental clinic, which was staffed by a full-time dentist and a full-time assistant. **The CPT recommends that action be taken to enable patients to benefit from these resources, which should include a preventive dental treatment plan.**

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<sup>67</sup> These findings are acknowledged in the decisions of the Ministry of Health, cf. letter of 20 June 2006.

<sup>68</sup> Both individual treatment plans and monthly examinations are required by Article 23 of the new Law on Mental Health.

## 5. Staffing issues

141. The lack of management continuity at the hospital could be seen, in the CPT's view, as a significant obstacle to long-term strategic change in the interest of improving the quality of care provided to patients. In this context, the majority of staff members interviewed expressed the view that recruitment decisions were dependent upon political affiliation. Although it is impossible to verify such allegations, the widespread conviction alone of such a state of affairs is likely to have a negative impact on staff motivation and professionalism, which in turn can undermine the quality of care provided to patients.

142. Staff numbers appeared to be inadequate on most of the hospital's wards, with only two nurses or one nurse and one orderly on each shift, for wards accommodating up to 60 patients (ward III). Other staff categories also found to be insufficiently represented at the hospital were psychiatrists (the national standard doctor-patient ratio would require the complement to be increased by 50%), psychologists (only two for 414 patients) and social workers (five in total). It is clear that an increase in the number of appropriately qualified nurses and auxiliary staff present in the wards, as well as psychiatrists, psychologists and social workers, would do much to improve the situation as regards the treatment and care offered to patients.

143. In terms of the quality and professionalism of staff, the Committee's delegation found, in general, that ongoing staff training was not sufficiently available to meet the needs of the establishment.

Further, staff discipline appeared to be lax, in certain respects. In particular, the CPT's delegation heard allegations of instances of drunkenness and associated aggressive behaviour among certain nursing and even medical staff while on duty. These allegations were confirmed by staff and the delegation observed alcohol bottles in staff rooms. Any use of alcohol by staff when on duty places staff and patients at greater risk.

144. In the light of the foregoing remarks, **the CPT recommends that the authorities:**

- **increase the number of qualified staff working on wards (nurses and auxiliary staff), as well as the number of psychiatrists, psychologists and social workers;**
- **review recruitment policies, inter alia to ensure that recruitment is seen to be transparent and based on professional criteria;**
- **introduce continuous in-service training opportunities for staff, including on the non-violent management of agitated patients and restraint procedures (see paragraphs 146 and 147 below);**
- **develop primary nursing and mentoring programmes;**
- **bolster efforts to guarantee staff professionalism and discipline, in particular by putting an end to the consumption of alcohol by staff while on duty.**

## 6. Means of restraint

145. The CPT's delegation received many allegations that patients were, at times, immobilised with chains padlocked to the bed. Although the staff initially went to great lengths to conceal and deny<sup>69</sup> the use of such chains, the delegation discovered that they were indeed the usual means for physical restraint. The hospital had been criticized in the past for using chains to restrain patients and had declared to the Ministry of Health that it had abandoned this practice.

The delegation noted that resort to means of physical restraint was subject to a doctor's approval and a restraints form was in use, although not systematically. The lack of a central register hampered the central monitoring of the use of restraints. Further, immobilised patients were left with no direct supervision by staff and were both dependent upon, but also vulnerable to, the presence of other patients.

146. In the CPT's view, **chaining patients to their beds is totally unacceptable and could well be considered as amounting to inhuman and degrading treatment<sup>70</sup>, quite apart from it being potentially physically harmful.** Indeed the delegation noted physical injuries to the wrist of one patient whom it had observed being chained.

The CPT understands that, on occasion, there may be a need to physically restrain patients to protect themselves or others and, *exceptionally*, to resort to instruments of physical restraint. However, **the CPT recommends that any measures of mechanical restraint entail the use of appropriately designed restraint equipment, be properly applied by appropriately trained staff, monitored and recorded, including centrally, and be carried out in such a way as to maintain the dignity and safety of the patient. Mechanical restraints should never be applied as a punishment or for the staff's convenience. Moreover, resort to such restraints should not usually take place in the presence of other patients and there should always be continuous direct personal supervision.**

147. The CPT notes that, since the visit, the Minister of Health has issued an order prohibiting the use of inadequate and degrading restraint equipment and prescribing that appropriate equipment for restraints be put in place, as well as criteria for, and recording and monitoring of, the use of restraints<sup>71</sup>. **The CPT would like to receive confirmation that at Demir Hisar Psychiatric Hospital, as well as at all other similar institutions:**

- **chains used for immobilising patients have been removed;**
- **appropriate restraint equipment is available in each ward; and**
- **procedures for its use are applied, including through adequate staff training.**

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<sup>69</sup> See paragraph 5 above.

<sup>70</sup> See also the Committee's 16<sup>th</sup> General Report (CPT/Inf (2006) 35), at paragraph 40: "Certain mechanical restraints, which are still to be found in some psychiatric hospitals visited by the CPT, are totally unsuitable for ...[the] purpose [of controlling agitated and/or violent patients] and could well be considered as degrading. Handcuffs, metal chains and cage-beds clearly fall within this category; they have no rightful place in psychiatric practice and should be withdrawn from use immediately."

<sup>71</sup> Letter of 20 June 2006; see paragraph 8 above.



## 7. Safeguards and complaints

### a. the initial placement decision

148. At the time of the visit, involuntary placements constituted 30% of all admissions at the hospital since the beginning of 2006. The CPT is concerned to note that the judicial civil procedure for involuntary placement usually took several weeks<sup>72</sup>. Further, patients' procedural safeguards appeared to be lacking. The patient was not usually heard by the judge and his or her interests were not represented in person or through a representative in any proceedings. Further, the judge decided on the matter without resorting to clinical expertise independent from the establishment recommending the placement, as he or she was neither obliged to seek it, nor was the patient provided with an opportunity to adduce a second opinion.

A review procedure was also absent in cases where a patient who was admitted voluntarily to the hospital was subsequently prevented from leaving.

None of the concerns outlined above are explicitly addressed in the recently enacted Law on Mental Health<sup>73</sup>.

**The CPT recommends that, in the context of a decision on involuntary psychiatric placement, the patient be heard by the judge, as required by law, if this is possible and not detrimental to the person's health. The patient should also be entitled to legal assistance in such proceedings. Where the patient does not appear before the judge (for the reasons prescribed by law), he or she should normally be represented by a person acting in his or her interests. Further, the necessary steps should be taken, including at the legislative level<sup>74</sup>, to ensure that proceedings to approve a provisional placement measure are subject to a time limitation. Finally, involuntary placement decisions should be taken only after clinical expertise has been obtained which is independent of the institution in question.**

### b. safeguards during placement

149. The CPT's delegation noted that treatment could be administered at the hospital without the patient's consent. In the CPT's view, patients should, as a matter of principle, be placed in a position to give their free and informed consent to treatment. The admission of a person to a psychiatric establishment on an involuntary basis should not be construed as authorising treatment without his consent. It follows that every competent patient, whether voluntary or involuntary, should be given the opportunity to refuse treatment or any other medical intervention. Any derogation from this fundamental principle should be based upon law and only relate to clearly and strictly defined exceptional circumstances. **The CPT recommends that procedures be established to entrench the principle of consent to treatment for all patients, including those placed on an involuntary basis.**

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<sup>72</sup> According to the Law on non-process (litigation) procedure, the management of the health establishment must apply to the court within 48 hours of an involuntary placement (Article 59), after which the court must immediately order an examination of the person (Article 64). Such an examination must be made by at least two physicians (one of whom must be a specialist for nervous and psychiatric illnesses) and conducted under the supervision and according to the instructions of the judge (Article 45). The court must examine all the circumstances which are significant to the decision and must hear the person if this is possible and not detrimental to the person's health (Article 65). The Court's decision to confirm the placement or release the person must be given within three days of receiving the results of the examination (Article 66). Placement decisions must be for a definite duration not exceeding one year (Article 67).

<sup>73</sup> cf. Articles 16 and 22 of the Law.

<sup>74</sup> At present, the legislation does not prescribe a time-limit in which the examination must be completed.

150. The CPT takes note, once again, that no introductory brochure was issued to patients and their families on admission, setting out the establishment's routine and patients' rights. **The CPT reiterates the recommendation** it made on its previous two visits to psychiatric institutions in 1998 and in 2002<sup>75</sup>, to the effect **that such a brochure be provided to patients and their families. Any patient unable to understand this brochure should receive appropriate assistance.**

151. An important safeguard recommended by the CPT is the opportunity for patients to lodge a formal complaint with a clearly designated body and to communicate on a confidential basis with an appropriate authority outside the establishment. Despite recommendations after the CPT's visit in November 2002<sup>76</sup>, no such opportunity was open to patients at Demir Hisar Psychiatric Hospital at the time of the visit.

The new Law on Mental Health provides for the right to complain to the hospital management or to the Ministry of Health by way of the hospital management. Nevertheless, **the CPT wishes to be informed as to whether the competence of the new *Commission for Mental Health in the community*<sup>77</sup> - an institution which, under the new Law, is to be independent from the health care establishment and the Ministry of Health - extends to the protection and assistance of patients accommodated in mental health care establishments.**

**Whatever the procedures in place for dealing with complaints from patients, they should include a possibility to lodge a complaint on a confidential basis with an independent body.**

152. A further fundamental safeguard which was lacking at the time of the visit was a system of inspections by an independent authority.

Although the new Law on Mental Health entrusts the Commission for Mental Health in the community to "propose measures for the improvement of conditions for the accommodation and care of persons with a mental disease to the competent authorities", powers of inspection are not explicitly mentioned.

**The CPT requests confirmation that a system is now in place, whereby an independent authority may make frequent and unannounced visits<sup>78</sup> to psychiatric hospitals with a view to making recommendations, if necessary, on how patients' care should be improved. Such a body should, in particular, be authorised to speak privately with patients.**

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<sup>75</sup> See CPT/Inf (2004) 29, paragraph 117, subparagraph 1.

<sup>76</sup> See CPT/Inf (2004) 29, paragraph 117, subparagraph 2.

<sup>77</sup> See Part VII of the Law on Mental Health.

<sup>78</sup> The Committee already recommended the introduction of such a system after its visit to Skopje Psychiatric Hospital in November 2002 (see CPT/Inf (2004) 29, paragraph 117, fourth subparagraph).

c. discharge

153. Involuntary placement in a psychiatric establishment should cease as soon as it is no longer indicated by the patient's mental state, associated risks to himself and others, his in-patient treatment needs and his voluntary compliance with those. Consequently, the need for such a placement should be reviewed at regular intervals.

154. The CPT notes that involuntary placement is for a specified maximum period of one year, after which a renewal must be sought by the establishment and approved by the court if the treating psychiatrist is of the opinion that the placement should continue. However, the CPT notes that in practice, the renewal of a placement decision was obtained in a rather summary fashion. **The CPT recommends that periodic renewals of placement orders be surrounded by the same safeguards as those applying to the initial placement decision (see paragraph 148).**

By law, the patient himself or herself may request - apart from the regular review mentioned above - that the necessity for placement be considered by a judicial authority. However, the delegation found that some mental health practitioners interviewed were unaware of this right. **The CPT recommends that steps be taken to guarantee the effective enjoyment of the right of patients or their guardians to prompt, at reasonable intervals, a judicial review of their involuntary placement. This opportunity should also be available to persons who were initially admitted on a voluntary basis and whose placement becomes involuntary.**

## **F. Demir Kapija Special Institution for mentally disabled persons**

### **1. Preliminary remarks**

155. The CPT carried out a follow-up visit to the main site of the Special Institution for mentally disabled persons in Demir Kapija, which falls under the responsibility of the Ministry of Labour and Social Policy, in order to assess the situation since the previous visit in November 2002<sup>79</sup>.

156. The Special Institution is described in paragraph 60 of the November 2002 visit report. At the time of the delegation's visit in 2006 it accommodated 337 residents, i.e. 60 fewer than in November 2002<sup>80</sup>. It was noticeable that a number of structural developments had taken place in the intervening period, largely with the help of foreign donations.

In October 2003 a new building, at the far end of the site, was opened to accommodate 70 of the less severely disabled residents drawn from different departments. This building was intended to be a stepping stone towards greater autonomy for residents, with a view to their eventual de-institutionalization. Also, the first floor of the B ward had been entirely refurbished. This ward was now referred to as the 'kindergarten' and it accommodated the youngest residents, many of whom were bedridden.

However, the rest of the Health Department, the main accommodation block consisting of three connecting buildings (A, B and C), remained largely the same as in 2002.

157. The CPT would note, at this stage, that the management of an establishment such as Demir Kapija Special Institution for mentally disabled persons requires a clear strategic plan to ensure the establishment's sustainability, and that donations are appropriately channelled to address priority needs. However, the delegation noted several signs of the absence of such a strategic plan (see, for example, paragraphs 165, 166 and 173).

### **2. Ill-treatment**

158. The CPT's delegation noted that, in comparison to the situation observed during the visit in 2002<sup>81</sup>, the level of tension and violence had diminished in the C wards, which accommodated the more violent and aggressive residents at the Institution. Nevertheless, the delegation learned of a number of violent incidents among residents which staff could not control effectively.

Although the number of residents in wards C1 and C2 had reduced (to 27 and 26, respectively) since the 2002 visit, staffing levels remained insufficient, with only one orderly present on each ward during the afternoon and night shifts. Further, the layout of each ward was such that a lone staff member could only observe half the ward at any one time.

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<sup>79</sup> See CPT/Inf (2004) 29, paragraphs 60 et seq. The CPT's delegation did not return to the "Depandans", the secondary facility at a few kilometres' distance, which accommodated 100 of the Institution's most autonomous residents.

<sup>80</sup> Since the visit in 2002, some degree of de-institutionalization had occurred, and efforts had been made to develop community care for the mentally disabled. Thus, in 2006, 18 day-care centres existed throughout the country, three of which were run by non-Governmental Organisations (NGOs).

<sup>81</sup> See CPT/Inf (2004) 29, paragraph 62.

As the CPT stated previously<sup>82</sup>, such a low level of staffing can only contribute to inter-resident violence and will inevitably put residents - as well as the staff - at risk (in addition to contravening the principle of duty of care). By letter of 26 June 2006, in response to the delegation's end-of-visit remarks concerning inter-resident violence on the C wards, the Ministry of Labour and Social Affairs indicated that the Director of the Special Institution would transfer 10 staff members from other wards to the C wards. **The CPT would like to receive information concerning the schedules and staffing of shifts on the C wards.**

More generally, **the CPT would reiterate its recommendation that the authorities keep under review the level of staffing in each ward during the afternoon and night shifts, with a view to reinforcing, where necessary, the presence of qualified staff, particularly vis-à-vis the wards accommodating the most aggressive and the more vulnerable residents.**

159. Further, the CPT delegation's findings would suggest that staff neglect, combined with insufficient staffing, may have contributed to the untimely death of certain residents. In one particular case, Mr I.I., a minor, sustained severe injuries on 2 October 2004, but his case was only brought to the attention of the doctor two days later. He died later that same day, on 4 October 2004. According to the autopsy report of 5 October 2004, the cause of death was bronchopneumonia resulting from pulmonary contusion. The Opinion of the autopsy report states: "The inflammation is a direct consequence of the injury of the left side of the chest, on which a blunt force was inflicted and which resulted in a fracture of the 8th rib and contusion of the lung."

This contradicts the information provided by the Public Prosecutor of Kavadarci in his letter of 22 August 2006 to the Ministry of Labour and Social Policy, in which he cited the autopsy report as stating "that the death of the deceased [I.] was not violent, nor caused by another person. Instead, the death was caused by pneumonia." The Committee was all the more surprised to learn, by letter of 16 October 2006 from the Permanent Representative of "the former Yugoslav Republic of Macedonia", that the competent authorities from the Ministry of Labour and Social Policy, the Court of the first instance of Kavadarci and the Public Prosecutor's Office of Kavadarci had also met on 20 September 2006 to discuss the case and had arrived at the same conclusion. This misrepresentation of the autopsy report represents a clear lack of cooperation. Further, the extent of injuries noted in the autopsy report would in themselves necessitate an investigation.

The Kavadarci Court of first instance transferred the results of its investigation on 21 October 2004 - and a copy of the autopsy report on 5 November 2004 - to the Kavadarci Public Prosecutor's office. Since then, no further action was taken, on the basis that "there were no grounds for action under criminal law". In view of the authorities' duty to carry out an effective investigation into the circumstances of the death of I.I., **the CPT wishes to be informed of the outcome of that investigation.**

Moreover, the Director of the Institution acknowledged that no additional inquiries into the incident were undertaken internally, at the level of the establishment. **The CPT recommends that the management of Demir Kapija Special Institution carry out an internal inquiry into the circumstances of the death of I.I., with a view to preventing future incidents.**

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<sup>82</sup> See CPT/Inf (2004) 29, paragraph 65, third subparagraph.

160. In the light of the foregoing paragraphs, the CPT wishes to stress the importance it attaches to the way in which the management of an establishment deals with incidents of violence. The authorities responsible for the Special Institution owe a duty of care towards the persons in their charge, which includes ensuring that residents are not subjected to any form of ill-treatment by staff members, and that they are protected from other residents who might cause them harm.

**The CPT recommends that the management of Demir Kapija Special Institution:**

- **ensure that prompt treatment is provided to residents who are injured in a violent incident;**
- **diligently examine all violent incidents, when they occur, with a view to identifying corrective action that could reduce the risk of future incidents;**
- **initiate appropriate disciplinary procedures and notify the prosecutorial authorities when violence is inflicted by staff; and**
- **take the necessary measures to ensure that, when incidents of violence among residents occur, staff are able to manage them in an appropriate manner, including, where necessary, by referral to external authorities.**

161. Once again<sup>83</sup>, it should be noted at this stage that certain aspects of the living conditions (C Wards) and care (feeding of young bedridden persons in B wards) of residents in Demir Kapija could be said to amount to inhuman or degrading treatment (see paragraphs 163 and 169 below).

### **3. Residents' living conditions**

162. In certain respects, the CPT's delegation found that material conditions at the Special Institution had improved since the visit in 2002. As already indicated, with the help of foreign donations, a new building had been constructed and the first floor of the B building had been entirely transformed and refurbished.

163. However, it is significant that the C Wards were found once again by the CPT's delegation to be in a very poor state of repair, with decrepit bedding, harsh concrete floors and a pervasive smell of urine. Even minor renovation work to the floors and toilets had already deteriorated.

After the visit in 2002, the CPT had already informed the authorities that the conditions in the C wards could be said to amount to inhuman and degrading treatment. By letter of 26 June 2006, the Ministry of Labour and Social Affairs indicated that work on the reconstruction and adaptation of the C Wards was soon to begin. **The CPT requests updated information on progress in the renovation of the C wards, as well as on interim measures for the accommodation and care of the residents from these wards, pending completion of the renovation work.**

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<sup>83</sup> See also CPT/Inf (2004) 29, paragraph 66.

164. The Health Department, the main accommodation block comprising buildings A, B and C, had 167 residents at the time of the visit, a significant reduction in numbers compared to the 280 residents accommodated there in 2002. The problem of overcrowding in the bedrooms of the A wards<sup>84</sup> was therefore solved and conditions there were satisfactory.

165. Conditions in the B wards, however, varied considerably.

Ward B1, at ground level, accommodating bedridden adults, remained somewhat austere. However, the CPT is pleased to note that care for incontinent residents had greatly improved, with the provision of incontinence pads throughout the Institution wherever needed.

The upper level, which had previously comprised wards B2, B3 and B4, had been transformed into the kindergarten. It accommodated 29 young residents with severe to very severe learning disability, eight of whom were mobile, two semi-mobile and 19 bedridden. The dormitory-style wards had been converted into smaller rooms offering good conditions. The three rooms for bedridden residents were colourfully decorated, thereby offering visual stimulation to those residents. A well-equipped day-room (TV, beanbags, low benches) and a padded jumping-room for mobile residents were not, however, in use. Mobile residents, but also two semi-mobile and six bedridden residents took meals and participated in activities in a UNICEF-run project in a separate building<sup>85</sup>, funding for which (including for 9 staff members) was due to cease at the end of 2006.

On the whole, conditions at the kindergarten left the delegation with a favourable impression. However, the CPT has a number of concerns regarding this facility. In particular, staffing levels (two carers per shift) may not provide adequate supervision for the new small-room layout; it was unclear whether staff would be available from 2007 to continue to provide activities and care for the children who were not bedridden; and very good new facilities described above were evidently not being used.

166. With a capacity of 72, the 'new building' at the far end of the establishment was accommodating 70 residents (35 male and 35 female) in six apartments. Each apartment comprised a living/dining area, a small kitchen and a bathroom and could accommodate 12 persons in four partitioned bedrooms. Clearly, the layout of the apartments could more than adequately foster a sense of autonomy in a family-style living environment.

Further, the building comprised several rooms for activities, including music therapy, computing and drawing, and the staff working at the building was specifically recruited and trained to work in this very positive environment.

However, the delegation observed that the structure of the new building was already suffering from a lack of maintenance, for instance the roof was leaking. The bedrooms, although adequate in size and lighting, were not sufficiently aired. There were also signs that the building and its facilities were not being used to the full benefit of the residents. In particular, neither the kitchens nor the very impressive dental surgery appeared to be used.

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<sup>84</sup> cf. CPT/Inf (2004) 29, paragraph 76.

<sup>85</sup> This was described in the report on the visit in 2002; see CPT/Inf (2004) 29, paragraph 93.

167. In view of the shortcomings outlined in paragraphs 165 and 166 above, **the CPT recommends that the authorities:**

- **keep under review the staffing levels at the kindergarten;**
- **ensure the sustainability of activity programmes for residents at the kindergarten;**
- **treat regular structural maintenance as a priority;**
- **ensure that the new facilities in the kindergarten and the new building are exploited to the maximum benefit of the residents.**

#### **4. Treatment and care**

168. The delegation noted favourably the opportunities for activities and stimulation offered to residents at the Special Institution through the ongoing UNICEF project, the provision of visual stimulation for bedridden residents in the kindergarten and through a suitably varied programme of activities offered to residents at the new building.

Despite these achievements, however, close to one-half of the Institution's residents did not benefit from any organised activities. Indeed, the CPT's delegation noted an overall lack of detailed and individualised medical and psychiatric documentation/assessments concerning residents. **The CPT, therefore, reiterates its recommendation that efforts be made to increase the number of residents benefiting from stimulation, support, treatment and care appropriate to their individual condition. The CPT recommends that the medical documentation in respect of each resident be improved and that individual treatment plans be drawn up for all residents.** This will ensure better targeting of their care needs and provision for a range of therapeutic activities adapted to those needs.

169. The delegation was struck to observe, four years after its previous visit, that residents in Ward B1 were still being fed quickly while lying horizontally in bed. This practice could be life threatening and was already viewed by the CPT in 2002 as amounting to degrading treatment<sup>86</sup>. In response to the CPT delegation's immediate observation on this subject at the end of the visit in 2006, the authorities indicated<sup>87</sup> that it was not possible for the majority of residents to have their heads raised in order to be fed. Such a response is not acceptable. It would certainly be possible for residents to be fed at a normal pace and with their heads raised, if more staff were entrusted with this task. **The CPT calls upon the authorities to ensure that residents at the Special Institution are fed in a manner respecting human dignity, including by being raised from a recumbent position and in a manner which permits them to eat at a normal pace.**

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<sup>86</sup> See CPT/Inf (2004) 29, paragraph 96.

<sup>87</sup> By letter of 26 June 2006.



170. The delegation met four residents receiving treatment for tuberculosis who were being kept separately in a room on one side of Ward C2. Curtains hung along the glass-partitioned wall hid the residents from view. Although the residents were no longer infectious, the staff perceived them as being highly contagious, and as a result they were too afraid to enter the room. These residents took their meals in this room, which they were not allowed to leave. They were not taken outdoors for fresh air for the duration of their treatment. The residents received little or no attention from staff. Indeed, it was unclear to what extent they would be allowed or assisted to use the toilet and washing facilities in the next room. These residents were in isolation and this over a period of several months.

In the light of the foregoing remarks, **the CPT recommends that the Institution establish a strategy to deal with transmissible diseases, whereby persons suffering from such diseases receive the medical care and attention they deserve. Isolation for medical reasons should only be used when strictly necessary. Further, the Committee recommends that residents, family members and members of staff be informed about the risks of transmission and the necessary precautions that need to be adopted.**

171. The CPT is concerned about the use of open-ended prescriptions, made by the treating doctor, for neuroleptic drugs not administered immediately, or on an ongoing basis, but rather whenever the nursing staff believe it is necessary (so-called "PRN"<sup>88</sup> medication).

In the CPT's opinion, the generalised use of "PRN" medication without systematic control by medical staff would place too much responsibility on nurses and open the door to abuse, especially in an establishment such as Demir Kapija Special Institution, where there is no doctor present 24-hours a day. As with any drug treatment, its clinical effects should be carefully monitored at sufficiently frequent intervals. "PRN" medication could also, in certain instances, amount to involuntary treatment; if so, it should be surrounded by appropriate safeguards. Moreover, "PRN" medication should under no circumstances be used as a means of managing situations of conflict between residents. **The CPT recommends that the approach towards "PRN" medication be reviewed in the light of these remarks. In particular, a doctor should be immediately notified of every instance in which "PRN" medication is administered.**

172. The delegation noted that the Institution's residents were not being regularly weighed. **The CPT would recommend that:**

- **weighing scales (also appropriate for bedridden residents) be acquired;**
- **all residents be weighed regularly with a view to monitoring their nutritional status and prescribing effective nutritional intervention, where necessary.**

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<sup>88</sup> "PRN" stands for *pro re nata*, Latin for "for something that occurred"; in this context: "as needed".

173. Finally, the delegation observed that dental care was not adequate at the Special Institution. Instead of using the properly equipped dental surgery in the new building, treatment was limited to dental extractions performed with old equipment in the B building's infirmary. While the new building was the only part of the Institution in which the delegation observed toothbrushes, they were unfortunately all of the same colour, indistinguishable from one another. Consequently, they were not conducive to the promotion of personal dental hygiene among residents.

**The CPT would recommend that steps be taken to improve the provision of dental care to residents at the Institution, so that it includes individualised and general preventive care.**

## **5. Staff issues**

174. Staff numbers had diminished by 7 since 2002, to 132 (including 37 administrative and technical staff) for 337 residents at the time of the visit in 2006. Staff qualified to provide rehabilitative and therapeutic activities included one doctor, 14 nurses, 58 orderlies, two social therapists ("defectologists"), five instructors, six educators and one social worker, etc. Psychiatric treatment was provided by one psychiatrist who visited the Institution once every two weeks or on an on-call basis.

In the CPT's view, staff numbers remained inadequate to provide appropriate care and stimulation to residents with mental disabilities and psychomotor deficiencies.

Most wards in the Health Department were staffed by only one orderly per shift, with more staff present on the B wards with bedridden residents and one additional orderly present on the morning shift in the C wards. Although such a staffing situation could pose considerable risks on those wards accommodating the more aggressive residents (see paragraph 158 concerning the C wards), the lack of staff on other wards, too, can seriously undermine attempts to offer basic care, activities and stimulation to the residents, notwithstanding the good intentions and genuine efforts of the staff in service.

Further, although the CPT is pleased to note that the authorities have taken steps to increase staffing levels in the C wards by transferring 10 staff members from other wards (see paragraph 158 above), it is concerned that such a measure may adversely affect the situation for residents in those other wards.

**The CPT reiterates its recommendation that staffing levels of defectologists, physiotherapists, nurses and orderlies be substantially increased in the Health Department at Demir Kapija Special Institution and that particular attention be given to reinforcing the afternoon and night shifts.**

175. Psychiatric care provided at the Institution is clearly insufficient, having regard to both the number of residents and their mental status. A more extensive psychiatric input is required, for the development and regular review of residents' individual treatment plans (recommended in paragraph 168 above).

**The CPT therefore recommends that psychiatric care at the Institution be substantially reinforced.**

## 6. Safeguards

176. The regulatory framework for admission to, stay at and discharge from Demir Kapija Special Institution was described in some detail in the report on the visit in November 2002<sup>89</sup>.

177. The CPT trusts that, in the context of the process of de-institutionalization and emphasis on community care under way in the social care sector, due regard will be had to reinforcing the safeguards surrounding placement decisions by public authorities following a formal request by a family member or guardian. In particular, such a placement decision should benefit from objective medical expertise. Further, the placement should be subject to regular review, and the resident, his or her guardian or a person representing his or her interests, should have a right to challenge the lawfulness of the placement.

178. In this context, the CPT would like to remind the national authorities of Recommendation Rec(99)4 of the Committee of Ministers of the Council of Europe to member States on Principles Concerning the Legal Protection of Incapable Adults. This Recommendation contains 28 governing principles concerning guardianship. The CPT considers that an institute of guardianship based upon these principles would be balanced, fair and, above all, proportionate. **The CPT recommends that the authorities incorporate the Council of Europe's Principles Concerning the Legal Protection of Incapable Adults into the national legal norms governing guardianship.**

179. Civil society can play a very important role in the lives of residents in social care homes, not least through their regular visits, which increase residents' contact with the outside world. The CPT is, therefore, pleased to note that Demir Kapija Special Institution does receive regular visits from certain non-governmental organisations.

In this context, the CPT would also emphasise the importance it attaches to social care homes being visited on a frequent basis by an independent outside body empowered to formulate recommendations to the authorities on ways to improve the care and conditions afforded to residents. Visits by such a body - which could also be competent to receive complaints from residents, their families or their guardians - would, in the Committee's view, constitute an important safeguard for residents at Demir Kapija. **The CPT recommends that the authorities explore the possibility of instituting such a system of visits by an independent body.**

180. It would appear that no written information on residents' rights was provided to residents or their guardians at Demir Kapija Special Institution or at the social welfare centre during the admission procedure.

**The CPT recommends that an introductory brochure for residents and guardians be provided at Demir Kapija Special Institution, setting out the establishment's routine and residents' rights, including information about their right to lodge formal complaints and the modalities for doing so.**

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<sup>89</sup> See CPT/Inf (2004) 29, paragraph 119.

## **APPENDIX I**

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

#### **Cooperation between the CPT and the national authorities**

##### recommendations

- the Code of Criminal Procedure to be amended, in the light of the provisions of paragraph 2(c) and paragraph 3 of Article 8 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (paragraph 6).

#### **Law enforcement agencies**

##### **Preliminary remarks**

##### requests for information

- the comments of the authorities as regards the issues raised in paragraph 11 concerning the Police Law (paragraph 11).

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

##### recommendations

- the authorities to strenuously reiterate the message of zero tolerance of ill-treatment of persons deprived of their liberty and to reinforce it with a statement at the appropriate political level (paragraph 15);
- the authorities to pursue a multifaceted approach as regards recruitment and training comprising: a competitive recruitment process based upon strict selection criteria; an educational training course for all new recruits; and the provision of specific competency courses, on a regular basis, for serving police officers, both to update their skills and knowledge as well as to provide them with new competencies (paragraph 16).

##### **Safeguards against ill-treatment**

##### recommendations

- the authorities to ensure that all detained persons are granted the right to notify a close relative or third party of their choice of their situation as from the very outset of their deprivation of liberty by the police (paragraph 18);
- the relevant authorities to take action without delay to ensure that the right of access to a lawyer for persons deprived of their liberty by law enforcement agencies is rendered fully effective in practice, as from the very outset of deprivation of liberty (paragraph 20);

- as regards juveniles, steps to be taken to ensure that an adult responsible for the interests of the juvenile (i.e. a relative or guardian) is present when the juvenile concerned is interviewed (paragraph 20);
- the authorities to ensure that specific legal provisions are adopted on access to a doctor in accordance with previous recommendations (paragraph 21);
- steps to be taken to ensure that the form setting out the rights of detained persons is provided to such persons at the very outset of their custody (paragraph 23);
- persons called for investigative talks who are subsequently deprived of their liberty to be apprised of their rights a second time (paragraph 23).

#### requests for information

- comments of the authorities as regards the apparent refusal by persons deprived of their liberty in police stations to exercise their fundamental rights (paragraph 22).

#### **Material conditions**

##### recommendations

- the authorities to take the necessary measures as regards material conditions of detention in police establishments, in the light of the remarks in paragraph 24 (paragraph 24).

##### requests for information

- confirmation that the cubicle on the first floor of Kumanovo Police Station is no longer being used for holding persons (paragraph 25).

#### **Combating impunity**

##### recommendations

- concerning the system of accountability for law enforcement and other public officials, the relevant authorities to take vigorous and sustained action to ensure that the precepts set out in the report on the July 2004 visit, as well as in paragraphs 25 to 42 of the CPT's 14th General Report, are systematically applied in practice (paragraph 36);
- when allegations of detention in unauthorised locations are levelled against the law enforcement agencies, an independent investigation to be instituted to examine the veracity of such claims (paragraph 36);
- the authorities to carry out effective investigations into the cases of alleged ill-treatment referred to in paragraph 35 (paragraph 36).

requests for information

- the sequence of procedures that need to be completed in a case where an individual alleges ill-treatment by law enforcement officials (paragraph 36);
- statistics concerning the number of cases opened against police officers for alleged ill-treatment of persons deprived of their liberty, and the status of the cases, for the years 2004, 2005 and 2006 (paragraph 36);
- the comments of the authorities in respect of the matters raised in paragraph 37 concerning autopsies and other forensic examinations (paragraph 37).

**Prison establishments**

**Preliminary remarks**

recommendations

- following a period of in-depth consultations with all interested parties, the Ministry of Justice to produce a strategic plan for the recovery of the prison system that covers the following areas:
  - the mission of prisons and the values to which prison staff will work;
  - the size of the prison estate and the range of the prison types that it will include;
  - the range of activities that will be provided and the amount of access that persons detained, including those on remand, will have to them;
  - the human resource requirement needed to run the prisons professionally, giving competence profiles for the key roles;
  - financial projections over a 5 to 10 year period, showing how the planned provision will be met within the resource levels available.(paragraph 40);
- the authorities to continue to vigorously pursue multi-faceted policies designed to put an end to overcrowding in prisons, having regard *inter alia* to the principles set out in Recommendation No. R (99) 22 and other pertinent Recommendations of the Council of Europe's Committee of Ministers (paragraph 42).

requests for information

- a copy of the new House Rules for Idrizovo and Skopje Prisons, a list of all the other bye-laws that have been adopted and details of any other bye-laws being contemplated (paragraph 43);
- information on the activities to date of the State Commission instituted by the new Law on the Execution of Sanctions (paragraph 43).

## **Ill-treatment**

### recommendations

- the Minister of Justice and Director of the Prison Administration to deliver a clear message to all custodial staff that ill-treatment of prisoners is not acceptable and will be the subject of severe sanctions (paragraph 45);
- the authorities to put in place a clear procedure for ensuring that all allegations and other evidence of ill-treatment by the police of persons subsequently remanded in custody is properly recorded and brought to the attention of the General Prosecutor's Office (paragraph 46);
- a register to be introduced at each prison to track the progress of investigations concerning allegations or other evidence of all forms of ill-treatment that may come to the attention of the prison doctor. The Prosecutor's Office should be informed about the introduction of such a procedure and their cooperation sought (paragraph 46);
- the authorities to issue clear guidelines to all prisons to ensure appropriate mental health assessment and care for persons at risk of self-harm or suicide. Such guidelines should, especially in the case of juveniles and children, include provision for educational and other activities, as being locked in a cramped cell throughout the day is not conducive to such persons' welfare (paragraph 50);
- any measures of mechanical restraint to entail the use of appropriately designed restraint equipment, to be properly applied by appropriately trained staff, monitored and recorded, including centrally, and to be carried out in such a way as to maintain the dignity and safety of the prisoner; mechanical restraints should never be applied as a punishment or for the staff's convenience; resort to such restraints not usually to take place in the presence of other patients, and there should always be a continuous direct personal supervision (paragraph 51);
- in the light of the remarks made in paragraphs 52 to 54, the national authorities to:
  - take the necessary steps to improve the quality of supervision and decision-taking in Idrizovo Prison;
  - devise a national strategy concerning inter-prisoner violence.(paragraph 54).

### comments

- chaining inmates to their bed or other fixed objects is totally unacceptable in any circumstances and could be considered as inhuman and degrading treatment (paragraph 50).

### requests for information

- the outcome of the investigations into the cases mentioned in the third sub-paragraph of paragraph 44 above, concerning alleged ill-treatment prior to being placed in the isolation unit at Idrizovo Prison (paragraph 45);

- information on the concrete measures taken to eradicate ill-treatment of prisoners by prison staff, including through improved management and supervisory mechanisms (paragraph 45);
- a copy of the guidelines concerning appropriate mental health assessment and care for persons at risk of self-harm or suicide (paragraph 50);
- confirmation that chains are no longer used as a means of restraint (paragraph 51);
- the outcome of the investigation into the death referred to in paragraph 52 (paragraph 52).

### **Staffing issues**

#### recommendations

- the relevant authorities to urgently review the current staffing levels and staff deployment throughout the prison system. The objective should be to ensure that the number of prison officers employed is sufficient to ensure staff safety and the physical and mental integrity of inmates (paragraph 57);
- the number of educators to be increased at Idrizovo Prison and a significant proportion of the newly appointed educators to speak Albanian (paragraph 58).

#### requests for information

- the training provided, both initial and in-service, to prison staff (paragraph 59);
- the management training provided for Directors and their assistants (paragraph 59).

### **Conditions of detention**

#### recommendations

- a concerted effort to be made to reduce the occupancy rate in the remand section of Skopje Prison. As a minimum, every inmate should be provided with his/her own bed. Moreover, the sanitary facilities in the prison should be urgently renovated (paragraph 60);
- a rolling programme of renovation of the cells and rooms at Skopje Prison to be instituted, including new mattresses and bedding, and prisoners to be provided with appropriate quantities of hygiene products. The call bells should also be repaired (paragraph 60);
- running water to be installed immediately throughout Skopje Prison, with a view to offering all inmates a shower at least once a week (more frequently if the circumstances warrant, taking into account the European Prison Rules) (paragraph 60);
- immediate steps to be taken at Idrizovo Prison to devise a phased programme to reduce the occupancy levels in the multi-occupancy dormitories to ensure a minimum of 4m<sup>2</sup> per prisoner (paragraph 67);



- immediate steps to be taken to render Idrizovo Prison safe and hygienic through *inter alia* removing the open sewers, repairing the sanitary facilities, the provision of sufficient detergent and hygienic products, instituting a preventive health care programme that emphasises cleanliness, replacing decrepit mattresses, furnishing clean bedding, eradicating the infestation of cockroaches and other vermin, replacing broken window panes and repairing the floors and roofs, ensuring adequate artificial lighting in all living areas, providing all prisoners with a possibility of having access to a personal lockable cupboard at no charge, etc (paragraph 67);
- the authorities to ensure that all meals at Idrizovo Prison correspond to the minimum legal norms and the daily menu as prepared by the doctor and approved by the Prison Director. The quality and quantity of the food being provided to prisoners should be routinely recorded and monitored on a regular basis. Further, all prisoners should be provided with plates and cutlery for eating (paragraph 68);
- measures to be taken at Idrizovo Prison to renovate and modernise the equipment in the kitchen including the physical separation of the areas between where the food is prepared and the dishes are cleaned (paragraph 68);
- the authorities to take the necessary steps, without any further delay, to institute a regime permitting all remand prisoners to be offered a minimum of one hour of outdoor exercise every day (paragraph 70);
- steps to be taken to provide educational, cultural and sports activities for remand prisoners with a view to enabling them to spend a reasonable part of the day outside their cells (paragraph 70);
- specific steps to be taken to ensure that juvenile inmates are offered educational and recreational activities, which take into account the specific needs of their age group. Physical education should form a major part of that programme (paragraph 70);
- the relevant authorities to take the necessary measures to ensure that all prisoners in Idrizovo Prison and the closed sections of Skopje and Štip Prisons are offered activities of a purposeful and diverse nature, in order to comply with the basic aims of imprisonment (paragraph 73).

#### comments

- the CPT trusts that greater efforts will be taken in the future when constructing new detention cells to ensure that they are built to an optimal design (paragraph 61).

#### requests for information

- the date of introduction into service of the four new cells at Tetovo Prison (paragraph 61);
- a list of the concrete measures taken by the authorities, further to the second recommendation in paragraph 67, for each of the accommodation blocks in Idrizovo Prison (paragraph 67);

- a detailed timetable for the planned renovation of the accommodation units in Idrizovo Prison, starting with Wing B of the closed section (paragraph 67);
- a detailed list and timetable of the various activities (recreational, sport, educational, work) being offered to the prisoners in Idrizovo, broken down by the various accommodation units (paragraph 73);
- confirmation that all prisoners in the closed sections of Idrizovo and Skopje Prisons are offered a minimum of two hours of outdoor exercise every day, as stipulated in the LES (paragraph 73).

## **Health care**

### recommendations

- the authorities to urgently review the general state of the health care services in prison establishments, so as to meet the 'equivalence of care' norm. Improving health care in prison will necessitate *inter alia* the hiring of additional qualified medical staff (paragraph 76);
- a review to be carried out of the procedures for transferring prisoners suffering from psychiatric disorders to an appropriate institution for assessment (paragraph 77);
- the authorities to take the necessary measures, including amending the relevant legislation, to ensure that mechanisms are in place to guarantee the provision of somatic care in line with the equivalence of care principle (paragraph 78);
- as an initial measure, steps to be taken immediately to ensure:
  - at Idrizovo Prison, the recruitment of another full-time general practitioner and of a full-time psychiatrist and at least four additional qualified nurses, one of whom should be a qualified mental health nurse;
  - at Skopje Prison, the recruitment of at least two additional qualified nurses, one of whom should be a qualified mental health nurse;
  - at Štip Prison, the recruitment of at least a half-time general practitioner and one full-time nurse;
  - at Tetovo Prison, an increase in the time spent by the general practitioner at the establishment and the recruitment of one full-time nurse.(paragraph 83);
- a detailed needs assessment to be carried out in Idrizovo Prison to determine the precise requirements in terms of health care staff, facilities and equipment. The results of the needs assessment should be communicated to the CPT, along with a plan for taking the necessary measures (paragraph 83);
- steps to be taken to ensure that prisoners are never involved in the distribution of medicines or given access to prisoners' medical files (paragraph 83);
- a nurse to be employed in the prison unit at Skopje State Hospital on a full-time basis (paragraph 84);
- in Idrizovo and Skopje Prisons, a senior doctor to be appointed as director of clinical

services, who should also ensure a regular consultation process among the staff (paragraph 85);

- the authorities to ensure that every newly-arrived prisoner is properly interviewed and physically examined by a medical doctor as soon as possible after his admission. Save for exceptional circumstances, that interview should be carried out on the day of admission, especially insofar as remand establishments are concerned. Such medical screening on admission could also be performed by a fully qualified nurse reporting to a doctor. The law should clearly reflect this requirement (paragraph 86);
- steps to be taken to ensure that medical confidentiality is fully guaranteed in all prison establishments in "the former Yugoslav Republic of Macedonia". This implies that all medical examinations of prisoners should be conducted out of the hearing and - unless the doctor concerned requests otherwise in a particular case - out of the sight of prison officers (paragraph 88);
- the authorities to take additional steps to ensure that the confidentiality of medical data is respected and that all prisoners have a personal medical file, in which all relevant information is entered (paragraph 88);
- both the management and doctors of all the prisons visited (as well as of other prisons in "the former Yugoslav Republic of Macedonia") to be reminded that prison doctors' clinical decisions should be governed only by medical criteria (paragraph 89);
- a preventive health care policy to be drawn up and introduced in all the prisons in "the former Yugoslav Republic of Macedonia", in light of the remarks made in paragraph 90 (paragraph 90);
- a comprehensive strategy to be drawn up for the provision of assistance to all prisoners with drug-related problems, as one aspect of a national drugs strategy (paragraph 91);
- the methadone therapy project in Idrizovo Prison to include psycho-social support and form an integral part of the comprehensive drugs strategy for prisoners (paragraph 91).

#### comments

- the precepts indicated in paragraph 75 as regards health care services in prisoners should be clearly laid down in law (paragraph 75).

#### requests for information

- the comments of the authorities on the alignment of prison health care with the mainstream health care provision in the community (paragraph 74);
- the treatment presently being afforded to the person mentioned in paragraph 77, second sub-paragraph (paragraph 77);
- confirmation that the prison unit at Skopje State Hospital is no longer housed in the building in service during the 2006 visit (paragraph 84);
- the future facility to accommodate the prison medical unit (paragraph 84);

- confirmation that the record drawn-up by prison doctors following a medical examination of a newly arrived prisoner is in line with the CPT's previous recommendations (paragraph 86).

### **Other issues**

#### recommendations

- the authorities to take the necessary steps to increase visit time for remand prisoners and to improve the visiting facilities (paragraph 93);
- the rules governing home leave to be clearly explained to all prisoners and enumerated, in detail, in the House Rules (paragraph 95);
- a full investigation to be instituted into the allegations of corruption pertaining to the granting of home leave (paragraph 95);
- the authorities to review the visiting rights of foreign prisoners so as to permit, in appropriate cases, an accumulation of visiting time (paragraph 96);
- the authorities to take the necessary steps at Idrizovo Prison to ensure all prisoners in isolation are offered at least one hour of outdoor exercise every day and the possibility of taking a shower at least once a week (more frequently if the circumstances warrant, taking into account the European Prison Rules) (paragraph 99);
- all solitary confinement cells to have call bells which work (paragraph 99);
- the authorities to guarantee that a fair hearing, in accordance with the law, is instituted for all persons accused of disciplinary offences, and that the procedures are explained in clear language in the House Rules (paragraph 100);
- a doctor and the Prison Director to visit persons in isolation, as prescribed by law (paragraph 100);
- the authorities to take the necessary steps in the light of the remarks made in paragraph 103 regarding complaints procedures (paragraph 103);
- the authorities to take the necessary steps to ensure that the various supervisory mechanisms operate in a professional, transparent and independent manner, taking due account of the precepts outlined in paragraph 104 (paragraph 105);
- the authorities to institute a practice of carrying out thorough inquiries into deaths in custody with a view to learning lessons and improving operating procedures within the prisons (paragraph 107);
- the authorities to take the necessary steps in light of the remarks made in paragraph 108 regarding communication between the prison authorities and prisoners (paragraph 108);

- the authorities to take the necessary steps in the light of the remarks made in paragraph 109 regarding video surveillance (paragraph 109).

comments

- the authorities are invited to increase the number of visits for sentenced prisoners (paragraph 94);
- additional telephones need to be installed at Idrizovo Prison (paragraph 97);
- the authorities are invited to investigate the possibility of granting remand prisoners access to a telephone (paragraph 97);
- the CPT considers that investing scarce resources in installing close-circuit television surveillance equipment should not be at the expense of tackling some of the basic problems highlighted in paragraphs 60 to 68 (paragraph 109).

requests for information

- confirmation that when a prisoner decides to withdraw from methadone therapy, he will not be subject to a disciplinary measure (paragraph 100);
- the comments of the authorities on the remarks made in paragraph 101 regarding searches (paragraph 101).

**Educational-Correctional Institution**

**Preliminary remarks**

recommendations

- the authorities to attach a very high priority to finding suitable alternative premises for the Educational-Correctional Institution. Those premises should provide adequate separation between children and young adults subject to an educational-correctional measure (paragraph 112).

**III-treatment and discipline**

recommendations

- inmates who misbehave to be dealt with only in accordance with the prescribed disciplinary procedures (paragraph 117);

- the authorities to take effective action to put an end to violence towards children and young adults at the Educational-Correctional Institution, including:
  - a) a clear message to staff of zero tolerance of any form of ill-treatment, which if detected will be the subject of disciplinary and/or criminal proceedings;
  - b) measures to ensure that staff do not have recourse to batons or other non-regulation objects for the purpose of ensuring discipline (paragraph 118);
- appropriate measures to be taken regarding physical violence among inmates, in the light of the remarks made in paragraph 119 (paragraph 119).

#### comments

- it would not be appropriate for a prison officer who commits an act such as that referred to in paragraph 116 to continue to work in direct contact with children and young adults in an Educational-Correctional Institution (paragraph 116);
- in the interest of the prevention of ill-treatment, all forms of physical chastisement must be both formally prohibited and avoided in practice (paragraph 117).

#### requests for information

- whether the case referred to in paragraph 116 was brought to the attention of the competent prosecutor: if so, what was the outcome? if not, what was the reason for non-referral to the prosecutor? (paragraph 116);
- confirmation that all batons or other non-regulation objects have been effectively removed from the Institution (paragraph 118).

#### **Staffing issues and regime**

#### recommendations

- the management of the Educational-Correctional Institution and the national authorities to draw up a detailed action plan to remedy the clearly unacceptable situation described in paragraphs 121 and 122, including both short and long-term goals, if necessary making use of educational facilities external to the Institution, as provided for by Article 311, paragraph 2, of the Law on the Execution of Sanctions (paragraph 123).

#### requests for information

- a timetable of the educational, sporting and other activities currently being offered to the children and young adults every week (paragraph 123).

## **Conditions of detention**

### recommendations

- urgent action to be taken to rectify the failings referred to in paragraph 124 (paragraph 124);
- the authorities to take urgent steps to ensure:
  - a minimum of 4m<sup>2</sup> per inmate in multi-occupancy accommodation;
  - that sanitary facilities are maintained to an appropriate level of hygiene;
  - that facilities for recreational and other group activities are adequately maintained;
  - that juveniles do not associate or come into contact with adult prisoners.(paragraph 125).

### comments

- the basic conditions for detention of juveniles must be met immediately. It is untenable to delay making urgent improvements and renovations in the hope of the Institution's relocation to more suitable premises (paragraph 125).

## **Health care and confidentiality**

### recommendations

- the authorities to review the provision of health care provided at the Institution and to take the necessary measures, having regard to the remarks made in paragraph 126 (paragraph 126).

## **Complaints and inspection procedures**

### comments

- the remarks and recommendations at paragraphs 102 to 105 with regard to complaints and inspection procedures apply equally to places where children and young adults are deprived of their liberty, such as the Educational-Correctional Institution (paragraph 127).

## **Demir Hisar Psychiatric Hospital**

### **Preliminary remarks**

#### recommendations

- the authorities to review the policy of holding the mentally ill together with the learning disabled (paragraph 128).

#### requests for information

- progress in the implementation of the Law on Mental Health (paragraph 129);

- the comments of the national authorities with regard to the issue raised by the CPT concerning the mandatory penalty of temporary closure of mental health care institutions for ill-treatment by staff (paragraph 129);
- information about the implementation of the provision in the Law on Mental Health prohibiting clinical or experimental research on psychiatric patients (paragraph 129);
- updated information regarding the development of Day Care Centres throughout the country and confirmation that they are sustainable and not under threat of closure, e.g. through the non-payment of salaries (paragraph 130).

### **Ill-treatment**

#### recommendations

- measures to be taken at managerial level in order to put an end to ill-treatment at the hospital. In particular:
  - a) an unequivocal message of zero tolerance of ill-treatment of patients by staff must be issued, by appropriate means and at regular intervals. It must be made clear to staff at all levels that ill-treatment will be the subject of disciplinary and/or criminal sanctions as provided for under the new Law on Mental Health;
  - b) the standard of recruitment, training and management of staff should be improved and staffing levels should be increased;
  - c) a safe and independent system for complaints and inspections should be established, leading, where necessary, to appropriate sanctions.(paragraph 131).

### **Patients' living conditions**

#### recommendations

- appropriate measures to be taken to improve the very poor material living conditions at Demir Hisar Psychiatric Hospital, in the light of the remarks in paragraphs 133 to 137. In particular, these measures should aim at:
  - improving the state of repair and décor of the accommodation wards;
  - increasing the living space per patient to an appropriate level, and providing each of them with a personal, lockable space, adequate day-time clothing and food of suitable quality;
  - improving the state of repair of the sanitary facilities;
  - ensuring that hygiene at the hospital is of a standard worthy of a health-care institution;
  - providing adequate arrangements and equipment so that incontinent patients are cared for in a manner which is respectful of their dignity.(paragraph 138).



requests for information

- the consequences for patients of the closure of ward VI, which appeared to accommodate the hospital's more disturbed and agitated patients (paragraph 138).

**Treatment and care**

recommendations

- a more multidisciplinary treatment approach to be adopted at the hospital, providing greater opportunities for psychological and occupational therapy, including on the wards. Following this approach, individual treatment plans should be drawn up for each patient, and progress regularly reviewed (paragraph 139);
- action to be taken to enable patients to benefit from the dental health care resources available at the hospital, which should include a preventative dental treatment plan (paragraph 140).

**Staffing issues**

recommendations

- in the light of the remarks made in paragraphs 141 to 143, the authorities to:
  - increase the number of qualified staff working on wards (nurses and auxiliary staff), as well as the number of psychiatrists, psychologists and social workers;
  - review recruitment policies, inter alia to ensure that recruitment is seen to be transparent and based on professional criteria;
  - introduce continuous in-service training opportunities for staff, including on the non-violent management of agitated patients and restraint procedures;
  - develop primary nursing and mentoring programmes;
  - bolster efforts to guarantee staff professionalism and discipline, in particular by putting an end to the consumption of alcohol by staff while on duty.(paragraph 144).

**Means of restraint**

recommendations

- any measures of mechanical restraint to entail the use of appropriately designed restraint equipment, to be properly applied by appropriately trained staff, monitored and recorded, including centrally, and to be carried out in such a way as to maintain the dignity and safety of the patient. Mechanical restraints should never be applied as a punishment or for the staff's convenience. Moreover, resort to such restraints should not usually take place in the presence of other patients and there should always be a continuous direct personal supervision (paragraph 146).

comments

- chaining patients to their beds is totally unacceptable and could well be considered as amounting to inhuman and degrading treatment, quite apart from it being potentially physically harmful (paragraph 146).

requests for information

- confirmation that at Demir Hisar Psychiatric Hospital, as well as all other similar institutions:
  - chains used for immobilising patients have been removed;
  - appropriate restraint equipment is available in each ward, and;
  - procedures for its use are applied, including through adequate staff training.(paragraph 147).

**Safeguards and complaints**

recommendations

- in the context of a decision on involuntary psychiatric placement, the patient to be heard by the judge, as required by law, if this is possible and not detrimental to the person's health. The patient should also be entitled to legal assistance in such proceedings. Where the patient does not appear before the judge (for the reasons prescribed by law), he or she should normally be represented by a person acting in his or her interests (paragraph 148);
- the necessary steps to be taken, including at the legislative level, to ensure that proceedings to approve a provisional placement measure are subject to a time limitation (paragraph 148);
- involuntary placement decisions to be taken only after clinical expertise has been obtained which is independent of the institution in question (paragraph 148);
- procedures to be established to entrench the principle of consent to treatment for all patients, including those placed on an involuntary basis (paragraph 149);
- an introductory brochure to be provided to patients and their families. Any patient unable to understand this brochure should receive appropriate assistance (paragraph 150);
- periodic renewals of placement orders to be surrounded by the same safeguards as those applying to the initial placement decision (paragraph 154);
- steps to be taken to guarantee the effective enjoyment of the right of patients or their guardians to prompt, at reasonable intervals, a judicial review of their involuntary placement. This opportunity should also be available to persons who were initially admitted on a voluntary basis and whose placement becomes involuntary (paragraph 154).

comments

- whatever the procedures in place for dealing with complaints from patients, they should include a possibility to lodge a complaint on a confidential basis with an independent body (paragraph 151).

requests for information

- whether the competence of the new *Commission for Mental Health in the community* extends to the protection and assistance of patients accommodated in mental health care establishments (paragraph 151);
- confirmation that a system of inspections is now in place, whereby an independent authority may make frequent and unannounced visits to psychiatric hospitals with a view to making recommendations, if necessary, on how patients' care should be improved; such a body should, in particular, be authorised to speak privately with patients (paragraph 152).

**Demir Kapija Special Institution for mentally disabled persons**

**Ill-treatment**

recommendations

- the authorities to keep under review the level of staffing in each ward during the afternoon and night shifts, with a view to reinforcing, where necessary, the presence of qualified staff, particularly vis-à-vis the wards accommodating the most aggressive and the more vulnerable residents (paragraph 158);
- the management of Demir Kapija Special Institution to carry out an internal inquiry into the circumstances of the death of I.I., with a view to preventing future incidents (paragraph 159);
- the management of Demir Kapija Special Institution to:
  - ensure that prompt treatment is provided to residents who are injured in a violent incident;
  - diligently examine all violent incidents, when they occur, with a view to identifying corrective action that could reduce the risk of future incidents;
  - initiate appropriate disciplinary procedures and notify the prosecutorial authorities when violence is inflicted by staff; and
  - take the necessary measures to ensure that, when incidents of violence among residents occur, staff are able to manage them in an appropriate manner, including, where necessary, by referral to external authorities.(paragraph 160).

requests for information

- the schedules and staffing of shifts on the C wards (paragraph 158);
- the outcome of the investigation into the circumstances of the death of I.I. (paragraph 159).

## **Residents' living conditions**

### recommendations

- the authorities to:
  - keep under review the staffing levels at the kindergarten;
  - ensure the sustainability of activity programmes for residents at the kindergarten;
  - treat regular structural maintenance as a priority;
  - ensure that the new facilities in the kindergarten and the new building are exploited to the maximum benefit of the residents.(paragraph 167).

### requests for information

- updated information on progress in the renovation of the C wards, as well as on interim measures for the accommodation and care of the residents from these wards, pending completion of the renovation work (paragraph 163).

## **Treatment and care**

### recommendations

- efforts to be made to increase the number of residents benefiting from stimulation, support, treatment and care appropriate to their individual condition (paragraph 168);
- the medical documentation in respect of each resident to be improved and individual treatment plans to be drawn up for all residents (paragraph 168);
- the authorities to ensure that residents at the Special Institution are fed in a manner respecting human dignity, including by being raised from a recumbent position and in a manner which permits them to eat at a normal pace (paragraph 169);
- the Institution to establish a strategy to deal with transmissible diseases, whereby persons suffering from such diseases receive the medical care and attention they deserve. Isolation for medical reasons should only be used when strictly necessary. Residents, family members and members of staff should be informed about the risks of transmission and the necessary precautions that need to be adopted (paragraph 170);
- the approach towards "PRN" medication to be reviewed, in the light of the remarks made in paragraph 171. In particular, a doctor should be immediately notified of every instance in which "PRN" medication is administered (paragraph 171);
- weighing scales (also appropriate for bedridden patients) to be acquired and all residents to be weighed regularly with a view to monitoring their nutritional status and prescribing effective nutritional intervention, where necessary (paragraph 172);
- steps to be taken to improve the provision of dental care to residents at the Institution, so that it includes individualised and general preventive care (paragraph 173).

## **Staff issues**

### recommendations

- staffing levels of defectologists, physiotherapists, nurses and orderlies to be substantially increased in the Health Department at Demir Kapija Special Institution and particular attention to be given to reinforcing the afternoon and night shifts (paragraph 174);
- psychiatric care at the Institution to be substantially reinforced (paragraph 175).

## **Safeguards**

### recommendations

- the authorities to incorporate the Council of Europe's Principles Concerning the Legal Protection of Incapable Adults into the national legal norms governing guardianship (paragraph 178);
- the authorities to explore the possibility of instituting a system of visits to social care homes by an independent body (paragraph 179);
- an introductory brochure for residents and guardians to be provided at Demir Kapija Special Institution, setting out the establishment's routine and residents' rights, including information about their right to lodge formal complaints and the modalities for doing so (paragraph 180).

**APPENDIX II**

**LIST OF THE NATIONAL AUTHORITIES AND ORGANISATIONS  
WITH WHICH THE CPT'S DELEGATION HELD CONSULTATIONS**

**A. National authorities**

**Ministry of Foreign Affairs**

Svetlana GELEVA	State Counselor for Multilateral Affairs
Sanja ZOGRAFSKA-KRSTESKA	Head of Department for Council of Europe, OSCE and European Multilateral Affairs, CPT Liaison Officer
Zoran TODOROV	Counselor, Human Rights Department, CPT Liaison Officer

**Ministry of Health**

Vane NAUMOSKI	State Secretary
Snezana CICEVALIEVA	Head of Department for International Cooperation and European Integration, CPT Liaison Officer
Anka GEORGIEVA	Head of Department for Medical and Health Care
Mirjana KAEVA-PEJKOVSKA	National Coordinator for Mental Health
Semsi MUSA	Director of the State Sanitary and Health Inspectorate

**Ministry of the Interior**

Ljubomir MIHAJLOVSKI	Minister
Trpe STOJANOVSKI	Assistant Minister for European Integration and International Cooperation
Cane CAPRAGOSKI	Director, Bureau of Public Security
Siljan AVRAMOVSKI	Deputy Director of UBK (Directorate of Security and Counter Intelligence)
Saso AVRAMOVSKI	Senior Advisor at the Department for International Cooperation and European Integration, CPT Liaison Officer
Rade JANKOVSKI	Director of the Border Police

**Ministry of Justice**

Meri MLADENOVSKA-GJORGJIEVSKA	Minister
Viktor CVETKOVSKI	State Secretary
Snezana MOJSOVA	Head of Sector for International Cooperation
Kostadinco EFREMOV	Director of the Directorate for the Execution of Sanctions
Katerina LEFKOVA-JOVEVSKA	Head of Department, CPT Liaison Officer

**Ministry of Labour and Social Policy**

Aco JANEVSKI	State Secretary
Slobodanka ZDRAVKOVSKA- LAZOVA	Head of Department, CPT Liaison Officer

**Other authorities**

Aleksandar PRCEVSKI	Public Prosecutor
Dragi CELEVSKI	Deputy Ombudsman in charge of prison matters
Tripun TANUSEVSKI	Deputy Ombudsman in charge of police matters
Uranija PIROVSKA	State Counselor for International Cooperation, Office of the Ombudsman

**B. International Organisations**

International Committee of the Red Cross delegation in Skopje

OSCE Spillover Monitor Mission to Skopje

**C. Non-governmental Organisations**

Macedonian Helsinki Committee

Centre for support of persons with intellectual disability - PORAKA

Organisation for Support of People with Mental Illnesses "Welcome"

Civil Society Research Center

### APPENDIX III

#### **MEDICAL FINDINGS CONCERNING CASES OF ILL-TREATMENT**

1. Findings by the medical member of the CPT's delegation following the examination of a person at Skopje Prison, who alleged ill-treatment while detained by the police in Kumanovo Police Station prior to being remanded in custody in Skopje Prison (see paragraph 13 i) of the report).

- a) a blue-violet bruise under the left eye;
- b) a swelling of the lower part of the right side of the face with erosions of the buccal mucosa of the same side;
- c) erosions of the upper lip, a small crust on the lower lip;
- d) left ear swollen, reddish-blue, with 2 small crusted abrasions in its lower part and in front of it; complains of an ear-ache, with a constant murmuring, wind-like, noise; the status of his right ear indicates a possible rupture of the tympanic membrane probably caused by a severe blow to the ear; his hearing was apparently poor;
- e) an elongated blue-violet bruise (6 cm x 2 cm), on the right side of the trunk, at the level of the 5<sup>th</sup> to 6<sup>th</sup> rib, between the mammilla and front axilla line, lying obliquely on the longitudinal axis of the body;
- f) on both wrists small diffuse linear abrasions;
- g) an elongated bruise of a blue-violet colour (10 cm x 3 cm), in the lower part of the outer side of the right upper leg, lying transversally on the longitudinal axis of the leg;
- h) an oval dark bluish bruise (10 cm x 6 cm), on the front side of the right lower leg;
- i) an elongated bruise of a blue-violet colour (7 cm x 2 cm) in the lower part of the back of the left upper leg, lying transversally on the longitudinal axis of the leg, with 2 smaller bruises around it;
- j) several small abrasions in the middle of the front side of the left lower leg with a bluish bruise inside them (5 cm x 12 cm);
- k) an elongated bruise of a blue-violet colour (6 cm x 2 cm) in the middle part of the outer side of the left lower leg, lying transversally on the longitudinal axis of the leg.

The injuries were consistent with the allegations of ill-treatment.

2. Findings by the medical member of the CPT's delegation who examined a person in the isolation unit of Idrizovo Prison, who alleged to have been beaten with truncheons by prison officers (see paragraph 44 of the report).

- a) on the posterior aspect of the thorax: 2 parallel linear red-violet bruises (22 x 0.5 cm); a red-violet L-shaped bruise (11 x 1 cm); 2 parallel linear pale red bruises (18 x 0.5 cm); a pale red bruised area (11 x 2 cm); a yellow-red bruised area (13 x 2.5 cm);
- b) on the lateral aspect of the left hemi-thorax, a blue-red bruised area (11 x 2.5 cm);
- c) on the lateral aspect of the left thigh (distal third), an oblong bruised area (18 x 4 cm), motley coloured (red, yellow, violet)
- d) on the upper third of the anterior aspect of the left thigh, a bluish bruised area (6 x 3.5 cm).

The injuries were consistent with the allegations of ill-treatment.



3. Findings by the medical member of the CPT's delegation who examined a person in the semi-open unit of Idrizovo Prison, who alleged to have been beaten with a truncheon by a prison officer (see paragraph 44 of the report).

- a) on the lateral aspect of the left arm, a motley coloured (yellow-red-blue) bruised area of undefined shape (9 x 11 cm);
- b) on the posterior aspect of the thorax, multiple (at least nine) elongated red-violet bruises, of the same width (approx. 4 cm) and various lengths (between 5 and 18 cm);
- c) on the lateral aspect of the left thigh, two parallel linear red-violet bruises (14 x 0.3 cm);
- d) on the postero-lateral aspect of the left forearm, three linear bruises (1.5 x 0.3 cm; 6 x 0.5 cm; 1.5 x 0.6 cm) partially covered by a thin red-brown crust;
- e) over the dorsal aspect of the region of the fifth metacarpal bone (right hand) a reddish abraded area (3.5 x 2 cm).

The injuries were consistent with the allegations of ill-treatment.