

Response

of the United Nations Interim Administration Mission in Kosovo (UNMIK) to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Kosovo*

from 15 to 22 April 2015

UNMIK has requested the publication of this response. The report of the CPT on its April 2015 visit to Kosovo* is set out in document CPT/Inf (2016) 23.

Strasbourg, 8 September 2016

* All reference to Kosovo, whether to the territory, institutions or population, in this document shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

UNITED NATIONS
United Nations Interim
Administration Mission
in Kosovo



NATIONS UNIES
Mission d'Administration
Intérimaire des Nations Unies
au Kosovo

*Special Representative
of the Secretary-General*

19 August 2016

Dear Mr. Gnatovsky,

In pursuance of Article 6, paragraph 1 of the Agreement signed on 23 August 2004 between UNMIK and the Council of Europe on technical arrangements related to the European Convention for the Prevention of Torture (CPT), UNMIK on 1 July 2016 provided the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (Committee) with a response to the Committee's report.

The response consisted of (i) a report of the Office for Good Governance, Human Rights, Equal Opportunities and Anti-Discrimination within the Office of the Prime Minister, which together with the relevant institutions of Kosovo provided additional information on the CPT report; and (ii) inputs from EULEX with a specific focus on Parts A (Police establishments) and B (Prison establishments). In addition, the European Union Special Representative (EUSR) has provided inputs in relation to questions concerning relevant legislation and the Ombudsperson Institution in Kosovo.

In submitting the response to the committee, UNMIK underlined that it provided the documents only in respect of information pertinent to establishing the actual situation vis-à-vis the implementation in Kosovo of the provisions of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

UNMIK also emphasized that references to certain institutions and laws and the language used in various parts of the information it received do not conform to the status-neutral stance of the United Nations.

Where the language used in the comments received by UNMIK departs from the status-neutral stance of the United Nations in relation to Kosovo, this language should be seen as reflecting only the views of the institutions contributing to this report. UNMIK does not bear any responsibility for the views expressed in the attached documents.

Accordingly, UNMIK, in submitting the documents, has done so without prejudice to the status of Kosovo. It provided the information on a voluntary basis, in the spirit of cooperation between UNMIK and the Council of Europe, and by extension the Committee, in line with UNMIK's mandate under United Nations Security Council resolution 1244 (1999) and the Agreement of 23 August 2004 between UNMIK and the Council of Europe on technical arrangements related to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

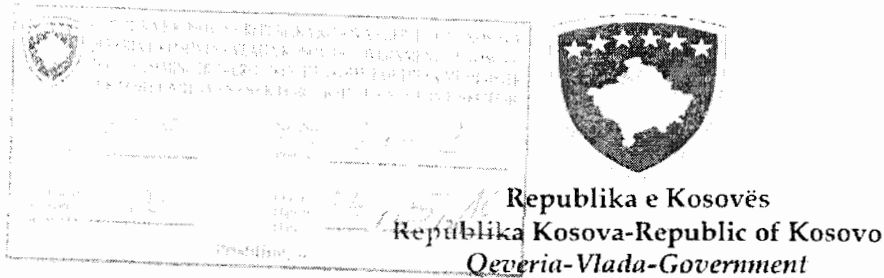
I hereby request the Council of Europe to waive the confidentiality of the CPT report.

Yours sincerely,



Zahir Tanin
Special Representative of the Secretary-General
Head of UNMIK

Mykola Gnatovsky
President
European Committee for the Prevention of Torture (CPT)
Council of Europe
Strasbourg
France



Zyra e Kryeministrit-Ured Premijera-Office of the Prime Minister

Zyra për Qeverisje të Mirë/Kancelarija za Dobro Upravljanje/Office on Good Governance

Number: 26/2016
Pristina, 17 May 2016

Dear Mr. Zarif,

Office for Good Governance, Human Rights, Equal Opportunities and Anti-Discrimination within the Office of Prime Minister, together with the relevant institutions of the Republic of Kosovo has reviewed and provided additional information on the confidential report drawn up by the European Committee for the Prevention of torture and Inhuman or Humiliating Treatment and Punishment (CPT), from the last visit conducted in Kosovo from the date 15-22 April 2015.

We appreciate the work, commitment and the content of the report, which examines the measures taken by the relevant authorities following the recommendations made by the Committee after its previous visits (2007 and 2010), where special attention is paid to treatment and conditions of detention of persons in police custody and the situation in the penitentiary and the Institute of Forensic Psychiatry.

Office for Good Governance within the Office of the Prime Minister has lead and coordinated process of providing information from relevant institutions on addressing and implementing the findings in the report compiled by the European Committee for the Prevention of Torture and inhuman or degrading punishment (CPT), from the last visit conducted in Kosovo from the date 15-22 April 2015

In order for the report to be as substantive and reflect the real situation, please find for your consideration the comments and additional information provided by the relevant institutions of the Republic of Kosovo.

However, for additional clarification and information we remain at your disposal.

Distinguished Mr. Zarif, please accept my highest consideration

Sincerely,
Habit Hajredini

Director of the Office on Good Governance
Office of the Prime Minister

Mr. Farid Zarif
Special Representative of the Secretary-General of the United Nations



Republika e Kosovës

Republika Kosova-Republic of Kosovo

Qeveria-Vlada-Government

Zyra e Kryeministrit-Ured Premijera-Office of the Prime Minister

Zyra për Qeverisje të Mirë/Kancelarija za Dobro Upravljanje/Office on Good Governance

Number: 26/2016

Pristina, 17 May 2016

Relevant information provided by the institutions of the Republic of Kosovo on the Confidential report drawn up by the European Committee for the Prevention of Torture and Inhuman Treatment or Degrading Punishment (CPT), from the last visit realized in Kosovo from dt. 15-22 April 2015

The answer about CPT Report regarding Health care in the Prisons

Prison Health Department, Ministry of Health

a. introduction

47. The CPT notes that the responsibility for medical services in KCS establishments was transferred from the Ministry of Justice to the Ministry of Health in July 2013. Overall, the delegation observed a number of improvements regarding the health care provided to prisoners since the 2010 visit. Further, the budget for prison health care has been significantly increased in recent years.

During the period since July 2013 when the transfer of prison medical services happened the budget was increased from 706,983.00 € up to 1,436,260.00 € in total.

This includes also some services and equipment's that were covered by MoJ before the transfer.

The staff number is increased from 111 (including in this number 12 consultants) up to 122 regular staff and 14 consultants out of this number with flexibility to have more in case of need.

The support from Ministry of Health giving adequate prioritizations of prison health Department is satisfactory. This is giving possibility that the service become more auronomus, professional and qualitative.

The cooperation with Kosovo Correctional Service is on good level, increasing every day through understanding by both sides to respect, cooperate and not involved at others professional issues.

b. staff, treatment and facilities

48. As regards health-care staff, the number of general practitioners 42 was adequate in all the establishments visited.

49. Further, the situation remained generally satisfactory with regard to nursing staffing levels.⁴³ At Dubrava Prison, the High Security Prison and Lipjan/Lipljane Correctional Centre, as well as at Prishtinë/Priština and Pejë/Peć Detention Centres, there was 24-hour nursing cover, seven days a week. At Gjiilan/Gnjilane Detention Centre, a nurse was present during the day seven days a week, while at night one of the nurses was present or remained on call.

At Mitrovica/Mitrovicë Detention Centre,⁴⁴ the delegation was informed that a recruitment process for two additional nurses was underway which would eventually allow the reintroduction of nursing cover around the clock.⁴⁵ **The CPT would like to receive updated information on this point.**

1. Since 01 July 2015 the staff coverage is as following:

At all prisons there is 24 hours nursing coverage, including the Mitrovica

At all prisons there is a doctor as Head of Prison Medical Unit with regular contract and full tie employee (except in Gjiilan and Prizren, where are part time doctors until end of this year, when it is planned to be full time).

2. Regarding dental service we are doing as follow:

We have employed 5 dentists with full time contract (one in Dubrava, one in Lipjan, one in Gerdovc , one in Mitrovica (part time) and one for Smrekovnica, Prishtina and Gjiilan) There are 5 dental clinics working and we are going to star at new prisons in Gjiilan and Prishtina also. Dental material and equipments are covering all needs.

Because of small number of inmates, we cannot open dental service within Peja and Prizren. The prisoners from those institutions are going to get the dental service at Dubrave and Lipjan.

50. In terms of specialist staff, the CPT welcomes the recruitment of a full-time psychiatrist at Dubrava Prison, in accordance with a specific recommendation made by the Committee after the 2010 visit. In the other establishments visited, a psychiatrist was present on a part-time basis,⁴⁶ except in Mitrovica/Mitrovicë Detention Centre, where the recruitment of a psychiatrist was in process and was expected to be completed in the coming months; in the meantime, prisoners with mental health problems were treated by the general practitioner in co-ordination with a psychiatrist from the general hospital. **The CPT would like to receive updated information on this matter.**

3. At each prison there is a consultant psychiatrist coming once or more times, regarding the needs to the prison. At Mitrovica and Prizren there is part time psychiatrist, every working day 4 hours.

At High security Prison, we have our psychiatrist who is covering 3 days a week this institution and Smrekovnica 2 days. We have other specializing psychiatrist preparing for Dubrava for full time. He will be graduated next year, at the moment he is doing practice at Dubrava together with consultant psychiatrist.

The recruitment for the psychiatrist is finished since July 2015 and the psychiatrist there is every working day 4 hours.

51. The health-care teams included a full-time psychologist in all the establishments visited, with the exception of the detention centres in Mitrovica/Mitrovicë and Prishtinë/Priština, where a psychologist was called in when needed.

That said, bearing in mind that Dubrava Prison usually accommodates a number of psychiatric patients (nine at the time of the visit) in the prison hospital unit, it is matter of concern that the post of psychologist had been vacant in the establishment since January 2015. **The CPT recommends that the relevant authorities take immediate steps to ensure that this post is filled.**

4. Regarding psychologist service at the prisons we have done up to now, as following:

We have employed 7 psychologist covering 6 prisons with full time e employed and one coordinator for mental health. At the moment we are not covering 3 prisons with full time psychologist just in call, but those institutions have psychiatrist (Mitrovica, Peja and Prishtina). At Smrekovnica we are in the process of recruiting full time psychologist.

At Dubrava since July 2015 we have employed a full time psychologist who is in charge for mental health unit at Dubrava. He is coordinating work of psychiatrist consultant and psychiatrist in residence with work of this unit.

52. It is praiseworthy that, at Dubrava Prison, a full-time dentist has been recruited, as recommended by the Committee after the previous visit. There was likewise a full-time dentist at the High Security Prison, while, at Lipjan/Lipljan Correctional Centre and Mitrovica/Mitrovicë Detention Centre, a dentist held consultations at the establishment three times per week.

47 At the other detention centres visited, inmates in need of dental care were referred to outside clinics.⁴⁸

5. Regarding dental service was given answer at the point 2. But regarding Dubrava ther is dentist full time employed and she is in residence at maxillofacial surgery to cover this field also except the general dental service.

53. In particular at the High Security Prison, several members of the health-care staff expressed the desire to receive enhanced in-service training to increase their effectiveness in dealing with health issues specific to a prison environment. **The CPT encourages the relevant authorities to arrange in-service training on relevant issues related to prison health care (including psychiatric care) for health-care staff in all KCS establishments**

6. Since January 2015, there is a big training at all prisons. All nurses from all prison until 30 June will finish 45 days training at emergency clinic centre at University Clinic and regional hospitals. This training is going to be finished.

Then at 3 modules (ethics, psychiatry and family medicine) all staff will finish training during the year 2016 in cooperation with Developing medical Training Centre of MoH.

54. The provision of general health care appeared to be on the whole adequate in most of the establishments visited.

That said, it is a matter of serious concern that Dubrava Prison and Pejë/Peć Detention Centre were apparently frequently faced with disruptions to the supply of medication, including essential medicines like insulin, which the patients were sometimes obliged to purchase themselves.⁴⁹ Medical staff at Dubrava Prison confirmed that, with the exception of treatment for tuberculosis, all other treatment was regularly interrupted because of shortages in the supply of medicines. The CPT wishes to stress that the

duty of care of the KCS towards prisoners includes the obligation to provide them with adequate medical care, including necessary medication.

49 Medications appearing on a list established by the Ministry of Health are sent to the different KCS establishments at regular intervals during the year and provided to prisoners free of charge. Medicines not on this list have to be purchased by the patients themselves.

The Committee recommends that the relevant authorities take immediate steps to ensure the uninterrupted supply of all essential medicines to KCS establishments, including by authorising the procurement of medication, if necessary, from local sources.

7. Drug supply:

At the moment Prison Health Department has long term contracts for all listed drugs. The supply is 100% of this list. The small number of none registered drugs; necessary for the inmates are bought by MoH (if those drugs cannot be found at public health institutions) The budget is covering needs for those drugs. Can be any time the procedures can postpone the supply of the drugs out of the list. Regarding Insulin and other drugs like anti TB and Methadone there is not any more interruptions with supply. The insulin has 2 sources, one from our list and other from the local authorities in case of interruptions (this is for the insuring the permanent supply).

55. There had been two suicides at Dubrava Prison during the course of 2014 and one at the High Security Prison in February 2015. In addition, there had been several cases of attempted suicide during the same period at Lipjan/Lipljane Correctional Centre and the detention centres in Gjilan/Gnjilane and Pejë/Peć.

The Committee would like to receive detailed information on the measures taken by the relevant authorities to prevent suicides in KCS establishments.

8. Suicide prevention

Regarding the suicide, during the January 2016 is drafted the strategy for prevention the suicide. It is in process also the SOP about all procedures for preventing the suicide, covering prisons with psychologists and psychiatrist, appointing the coordinator for mental health within PHD to coordinate the issue is just part of the measure.

Together with Correctional Service, we already made the multidisciplinary team in the head quarter to coordinate with prison multidisciplinary teams of the prisons.

56. The CPT is concerned about the manner in which two cases of attempted suicide (by hanging) were managed in early 2015 at Pejë/Peć Detention Centre. According to the medical files, neither of the two prisoners was immediately examined by a general practitioner, nor were they transferred to hospital for further tests to detect a possible trauma of the larynx or cervical bones or other injuries.

The CPT recommends that steps be taken at Pejë/Peć Detention Centre, as well as in all other KCS establishments, to ensure that prisoners who have attempted to commit suicide are promptly examined by a general practitioner and subjected, if necessary, to essential diagnostic procedures.

9. Procedure for post suicide attention treatment

To avoid the not proper treatment at the post suicide attention is made the program and multidisciplinary team where is taken into the consideration this topic as well.

57. As regards psychiatric care, the psychiatric ward of the hospital unit at Dubrava Prison was accommodating nine patients, six of whom suffered from severe mental disorders (such as psychosis). The care provided to the latter patients appeared to be highly inadequate, there being no meaningful occupational or therapeutic activities, apart from pharmacotherapy and regular consultations with a psychiatrist. The CPT considers that prisoners with severe mental disorders should be cared for in a

therapeutic environment and receive the same level of psychiatric care, including psychosocial treatment and occupational therapy, as those outside the prison system. Even if the vacant post of psychologist at Dubrava Prison was filled (see paragraph 51), the new Forensic Psychiatric Institute in Prishtinë/Priština would offer far more suitable conditions to treat severely mentally-ill prisoners and was also operating far below its official capacity (at the time of the visit, there were only twelve forensic patients in the ward for psychiatric treatment with 24 beds).

The Committee recommends that the relevant authorities take immediate steps to review the situation of severely mentally-ill prisoners at Dubrava Prison, in the light of the above remarks.

10. Psychiatric unit at Dubrava

Regarding this issue some of the explanations are given at point 4

There is in function the approved program for managing this unit.

The coordinator of this program is Dubrava Psychologist with support of the psychiatrist consultant and psychiatrist in residence together with social work correctional staff and administration for the prison monitored by mental health coordinator of Prison Health Department together with Heads of KCS.

All complicated cases and with risk for suicide usually are transferred to the Forensic Psychiatric Institution for the temporally treatment.

58. For cases of drug addiction, there was a fledgling programme in place. At Dubrava Prison, three prisoners were receiving opiate substitution treatment with methadone, and, at the level of the Ministry of Health, there were plans to extend this programme to several other KCS establishments. However, none of the establishments visited had put in place any harm-reduction measures (such as the provision of bleach and information on how to sterilise needles or needle-exchange programmes), although the delegation was told that such programmes were available to the general public.

In the CPT's view, the management of drug-addicted prisoners must be varied – combining detoxification, psychological support, socio-educational programmes, rehabilitation and substitution programmes – and linked to public health prevention policy. It goes without saying that health-care staff must play a key role in drawing up, implementing and monitoring the programmes concerned and co-operate closely with the other (psycho-socio-educational) staff involved.

The Committee encourages the relevant authorities to take into account the above-mentioned remarks in developing their programme for the management of drug-addicted prisoners, and would like to be informed of any developments in this regard.

11. Drug issues at prisons

Regarding drug issue in the prisons, there is ongoing Global Found Project for the Drugs, HIV/AIDS and TB.

There are protocols developed, staff trained and program ongoing regards:

Drug detection at the admission through medical and psychological interview is always performed.

Tests if it is indicated at this stage are performed as well. Medical and Correctional staff is trained.

Protocols are in place all the time. Detoxification, treatment, maintenance therapy, condom availability and Voluntary Consulting and Testing for HIV/AIDS, HCV and HBV are in place.

Needle exchange program is not available yet for many reasons. Main reason for as is that yet we do not have health indications for it at Kosovo Prisons.

59. Health-care facilities were once again generally found to be satisfactory in all the KCS establishments visited. In particular at the High Security Prison, the facilities were of a very good standard and well-equipped.

That said, it is regrettable that medical examinations were routinely carried out by doctors in the prisoners' cells rather than in the health-care unit. **The CPT recommends that this practice be discontinued at the High Security Prison.**

12. Medical visit in Clinic

Regarding this issue we already repeated again with a letter and we are monitoring that medical visit must be done only at the medical clinic always. Based on our monitor results this is respected.

60. At Dubrava Prison, the premises of the hospital unit, though newly renovated, were not adapted to the needs of physically disabled inmates; for example, a raised threshold at the entrance to the common sanitary facilities prevented access by wheelchair. **The CPT recommends that steps be taken at Dubrava Prison to remedy this deficiency.**

13. The steps and elevator

The topic is addressed to KCS to implement the elevator. This is not planned for this year based on current budget and planed reconstructions from KCS.

61. Moreover, at both Dubrava Prison and Pejë/Peć Detention Centre, the delegation was surprised to note that the common toilets and showers in the medical unit/infirmary had to be cleaned by the patients themselves. Such work is highly inappropriate for inmates who are ill. **Steps should be taken to put an end to such practices.**

14. The cleaning from the inmates to the medical units

Usually inmates do cleaning at all prison buildings including the medical units as well. After your remarks, we checked the issue and find that the inmates signed to be kept in the unit and to clean. We ordered to the administrations of the prisons that no one who is hospitalized can be worker (cleaner) in the same time. This is finished already and the topic is under monitor to be respected.

c. medical screening

62. As during the last visit in 2010, the delegation paid particular attention to the medical screening of newly-arrived prisoners. The CPT recalls that such screening is essential, not only for detecting (transmissible) diseases and preventing suicides, but also for contributing to the prevention of ill-treatment through the proper recording of injuries.

Whilst acknowledging that, in all the establishments visited, newly-arrived prisoners were usually seen by a doctor (or a nurse reporting to a doctor) within 24 hours of admission, the CPT must express its concern about the almost total lack of implementation of specific recommendations made by the Committee after the previous two visits.

In particular, with the exception of Dubrava Prison and the High Security Prison, there was still no systematic physical examination on admission in any of the establishments visited (the examination often being limited to questions about the state of health of the prisoner concerned and the existence of any injuries). In addition, in all the establishments visited, it remained the case that newly-arrived prisoners were not systematically screened for tuberculosis, nor was screening for hepatitis and HIV offered to inmates. Relevant tests were only carried out if there was a concrete suspicion. **The CPT reiterates its recommendation that steps be taken in all KCS establishments to ensure that all newly-arrived prisoners benefit from a comprehensive medical examination (including screening for transmissible diseases).**

15. Medical screening

There are sent to all medical units at the prisons and administrations the letter with attention of confidence and private screening at the admission. The issue is under permanent monitoring. This way can be avoided the negligence cases.

Regarding screening for transmissible diseases at the admission and during the serve of the sentence is suggested to be done as it is at public health service with respect of more attention to the combinable diseases that can be spread at the prison like contact diseases.

Nobody can be tested without indications and without permission.

For all activities there are specific protocols. The systematic visit is in place since long time ago.

63. Further, as regards the recording of injuries, the situation left much to be desired in virtually all the establishments visited. Injuries were not always recorded (see also the case referred to in paragraph 33(a)), whether on admission or during imprisonment. Indications on body charts were often not accompanied by an adequate description of the injuries and an indication of allegations made by the prisoner. Finally, even where allegations were recorded, there was a notable lack of any observations by the doctor concerning the consistency between the allegations and the doctor's findings.

The CPT recommends once again that steps be taken in all KCS establishments to ensure that the file drawn up after the examination of a prisoner – on admission or during imprisonment – contains:

i) a full account of objective medical findings based on a thorough examination (supported by a "body chart" for marking traumatic injuries). It would be desirable for photographs also to be taken of the injuries;

ii) a full account of statements made by the person concerned which are relevant to the medical examination (including the description of his/her state of health and any allegations of ill-treatment);

iii) the doctor's observations in the light of i) and ii) above, indicating the consistency between any allegations made and the objective medical findings.

Further, the results of every examination, including the above-mentioned statements and the doctor's observations, should be made available to the prisoner and his/her lawyer. In addition, a special trauma register should be kept in every KCS establishment in which all types of injury observed should be recorded.

64. From consultations with health-care staff, there appeared to be no clear procedures in place in any of the establishments visited in respect of the reporting of detected injuries. In particular, the information gathered during the visit suggests that injuries were not systematically brought to the attention of the management, let alone reported to the competent prosecutor.

The CPT reiterates its recommendation that the Ministries of Health and Justice take the necessary steps to ensure that, whenever injuries are recorded in any KCS establishment which are consistent with allegations of ill-treatment made by the prisoner concerned (or which, even in the absence of an allegation, are clearly indicative of ill-treatment), the record is systematically brought to the attention of the competent prosecutor. In this connection, the Committee would like to emphasise that, in accordance with its current standards, the aforementioned procedure should be followed regardless of the wishes of the person concerned.

16. Body injury

This indicator is followed permanently. The second page of the medical file is "body chart" where are the places to mark them. We are monitoring first visit and the topic as well. There are at all medical units the specific protocol also for injuries. We are monitoring all cases if they are presented as the instructions are. We are also re drafting the SOP for the topic.

All injuries detected by medical staff in any stage are evidenced and reported to Prison administration and to Head of Prison Health department. In case of no measures taken, the Director of KCS is informed also. The Ombudsperson is monitoring those cases as well and we have very close cooperation with them regarding all topics of the common interest.

d. medical confidentiality

65. The CPT notes with concern that, despite its specific recommendations made after the two previous visits, it remained the case that, in the KCS establishments visited, medical examinations/consultations were often carried out in the presence of prison officers, or with a prison officer waiting outside an open door within hearing distance. The Committee notes that such practices are also at variance with the new

House Rules.⁵⁰

50 Section 25.

The CPT wishes to stress once again that the presence of custodial staff during medical examinations/consultations is detrimental to the establishment of a proper doctor/patient relationship and in the vast majority of cases unnecessary from a security point of view. Alternative solutions can and should be found to reconcile legitimate security requirements with the principle of medical confidentiality. One possibility might be the installation of a call system, whereby a doctor would be in a position to rapidly alert prison officers in those exceptional cases when a prisoner becomes agitated or threatening during a medical examination.

The CPT reiterates its recommendation that steps be taken in all KCS establishments to ensure that medical examinations of prisoners, whether on arrival or at a later stage, are conducted out of the hearing and – unless the doctor concerned requests otherwise in a particular case – out of the sight of prison officers.

66. In most of the KCS establishments visited, prisoners were often required to make requests to see a doctor via the custodial staff (though without specifying the underlying reason). In order to enhance the confidentiality of such requests, and to reduce the risk, as well as potential suspicions, of corrupt practices in this regard, **it would, in the CPT's view, be desirable to introduce more appropriate procedures in all KCS establishments, for instance by arranging daily rounds of nursing staff in the detention areas to collect requests for medical consultations (as was observed at Lipjan/Lipljane Correctional Centre), or by introducing dedicated locked letterboxes for requests for medical consultations to which only members of the health-care team have access.**

17. Medical confidence and complains

Regarding the medical confidence and privacy of the medical visit were draft the procedure of the medical confidence and we sent the letter to all relevant stakeholders to respect this issue.

For the prisoner complains, we created the commission for analyzing all prisoners complains since 01 February. The process is going well and the results are evidenced. We have taken several measures about this.

Regarding the medical visit request it is again re ordered that all medical requests has to be done through nurses at all the time, except urgent case where nurse is not physically present at the block. The protocol is re sent and the process is under monitoring.

67. Finally, at Mitrovica/Mitrovicë Detention Centre, the delegation found a notice posted in the corridor of the detention area concerning the psychotropic medicine prescribed for a named prisoner. The CPT would like to stress that such information is protected by medical confidentiality and should under no circumstances be displayed in a public place. **Steps should be taken to put an end to such practices.**

18. Publishing at the wall of the medical instructions is avoided and ordered not to be repeated.

19 Additions:

Regarding all answers wrote at this report we have evidences to document all measures taken.

The answers and the report of the CPT recommendation regarding the Kosovo Correctional Service (KCS)

28. Request for information on the new structure at Lipjan/Lipljan Correctional Centre for male juveniles subject to an educational measure, which was expected to be completed by the end of 2015.

Centre for juveniles in Lipjan of educational measure is being finalized and is expected by mid-2016 to be functional, since handover delays have been due to construction issues.

28. Recommendation to develop solutions to the problem of not having the infrastructure nor the staff resources to deal with the expected influx of remand and sentenced prisoners at Mitrovicë/Mitrovica Detention Centre once the courts in the north began functioning again and request for information on the developments in this regard.

In Mitrovica Detention Centre (MDC) in November 2015, were recruited 25 new officers of the Kosovo Serb, have graduated from basic training at correctional Public Safety Academy in Vushtrri Kosovo. With 25 additional new officers is completed MDC staff. This will allow increasing the number of possible prisoners. With the renovations completed in 2012, all cells are in an acceptable standard; therefore MDC can accommodate a maximum of 79 prisoners. A total of 50,000 euros is available for improvements which will include the creation of a room for free visits. A problem that will remain is the accommodation of prisoners and detainees in the MDC, but due to the current political situation is still not possible to transfer sentenced prisoners in the south of Kosovo.

30. Recommendation to take decisive action to combat the phenomena of corruption and favouritism at Dubrava Prison, as well as in other KCS establishments. In Particular, to strengthen their efforts in this regard through preventive measures, education and the application of appropriate sanctions. In this context, KCS staff and officials working within the penitentiary system should receive the clear message that obtaining or demanding money or other advantages from prisoners is not acceptable and will be punished accordingly; this message should be reiterated in an appropriate form, at suitable intervals.

Kosovo Correctional Service (KCS) has conducted internal investigations but also initiated investigations in Kosovo Police regarding the corruption of the staff leading up to preferential treatment as well as problems such as departures during accompanying. During this period KCS has taken disciplinary action against staff but has dismissed one of its members that have participated in corrupt activity, there are also some cases in litigation regarding this matter and we are waiting for court decisions.

Problems persist in the preferential treatment given to persons of high profile which represents a serious obstacle to the further institutional development of KCS. Misuse of hospitalization

continues to be a challenge for KCS, but it will be easier to manage because we have reached an agreement with UCC at (the University Clinical Centre) for the provision of certain rooms within UCC that prisoners be hospitalized and kept safe and not be able to misuse, as well as to create favourable conditions for staff to keep safe this category of prisoners.

But SCA's management has also taken a number of steps that all prisoners be treated equally without discrimination.

32. Recommendation that the management of Gjilan/Gnjilane Detention Centre and the High Security Prison deliver a clear message to all staff that all forms of ill-treatment of prisoners are not acceptable and will be punished accordingly.

Lately there have been some inquiries for certain types of misconduct and disciplinary measures have been taken, therefore the staff is considered to be aware of the fact that bad behavior is unacceptable and that is subject to disciplinary and criminal action.

32 Request for information on the results of any investigations carried out in respect of the two following cases mentioned in the report, and of any action taken as a consequence:

Prisoner D.P. claimed to be ill-treated during the night of 8-9 March 2015. An incident report had been sent by the Director to the KCS Inspectorate, recordings of the CCTV camera were decided not to be kept and the prisoner had contacted the Ombudsperson. It remained unclear whether any administrative/criminal investigation had been initiated in this case.

Prisoner A.A. claimed to be ill-treated on 2 April 2015. This case was being investigated by the KCS Inspectorate, but it remained unclear whether this case had been brought to the attention of the competent prosecutor and a criminal investigation had been initiated.

The internal investigation is conducted in the case of prisoner D.P. use of force by officers is considered to be proportionate and necessary to put under control and to calm the prisoner. Therefore, disciplinary measures were not considered necessary. No criminal investigation was initiated by the Kosovo Police.

In the case of prisoner A.A, Director of the prison of high security demanded investigation into the allegations of prisoners to use force against him by the staff, and with this investigation is dealing Inspectorate of the Ministry of Justice who have come in to the conclusion that the petitioner is not exceeded the use of force by staff and therefore did not need to proceed with the case to the prosecutor. Regarding this case, the Ombudsman (Ombudsperson) closed the investigation after it has been verified that there has been no abuse or excess used of physical force against prisoners as claimed by him.

34. Request for information on the outcome of the initiated criminal investigation, and of any action taken as a consequence, related to the alleged rape of a prisoner by his cell-mates at Dubrava Prison in September 2014.

The criminal investigation is completed and has resulted with a judgment by the Court in Peja for 3 remaining suspects (one of the suspects committed suicide in BSL on February 25, 2015). The court sentenced the three prisoners 6 months detention for not reporting on possible violations.

36. Recommendation to take steps to remedy the inadequate storage space for personal belongings in the cells at the High Security Prison.

SCA has taken proper steps in providing the plastic lockers for placing personal belongings of prisoners in their rooms.

36. Recommendation to take steps as a matter of priority to ensure that the design and layout of the outdoor exercise yards at the High Security Prison are altered, in the light of complaints concerning the blinding reflection of the ground and the walls, the hard ground and the lack of adequate shelter against inclement weather.

EU Office / UNOPS, during the construction phase, was advised several times to take action on the promenade, but this was not done by them, therefore KCS is looking at the possibilities that with the budget for 2016 to make the painting of the walls to eliminate reflection.

38. Recommendation to remedy shortcomings related to not fully partitioned sanitary facilities, lacking call systems in cells, inadequate storage space, not receiving any bed linen, overcrowding, dangerous improvised wiring and very dilapidated or not functioning essential equipment for preparing food. Further, the CPT recommends that once refurbishment is completed, all multi-occupancy cells in the establishment will provide at least 4 m² of living space per prisoner (without counting the space taken by sanitary facilities).

SCA is making constant renovations since that cause damage to prisoners while in detention are not able to compensate, therefore KCS has continually performs these repairs with maintenance staff of the institution, while in terms of overcrowding of the cells, after completion of renovations and the transfer of the majority of high-risk prisoners, and very high in the high Security Prison (HSP) is not overpopulation problem.

40. Request for information on the closing of the Prishtinë/Priština Detention Centre and the Gjilan/Gnjilane Detention Centre, which was expected by the end of 2015, and the transfer of the inmates to the new establishments. This is related to the not satisfactory conditions at these two detention centers.

The new detention center in Gjilan was handed to MD on February 2 and will be used to start soon which will lead to the closure of the old detention center in Gjilan. Regarding the new detention center in Pristina, MD is expected to hand over in early summer 2016 but the old detention center in Pristina was closed in December 2015 and the prisoners were transferred to other institutions of KCS.

41. Recommendation to pursue the plan to close down Pejë/Peć Detention Centre as soon as possible. For as long as the existing premises remain in use, efforts should be made to ensure that sanitary facilities are

kept in an acceptable state of repair and that prisoners are offered at least 4 m² of living space per person in all multi-occupancy cells.

Discussions with MD related with the closure of the detention center in Peja are currently ongoing and a decision is expected by the MD in the near future. There is enough space in the annex of the Dubrava correctional center, which is a relatively new subject, to set prisoners of Peja. The cells in this institution are in accordance with European standards and have enough space and natural lighting.

42. Request for information on the comments on the fact that sentenced male juveniles appeared to be offered usually only some two hours of outdoor exercise per day, rather than the three hours to which they were entitled by law.

Regarding this we inform you that all juveniles (prisoners, detainees and educational measure) are generally out of their rooms after breakfast (08:00) until 17:00 for education and exercise in the external environment and must have 3 hours as per the law.

43. Recommendation to make the existing workshops (welding, carpentry, plumbing and electrical installation) accessible to more prisoners.

One of the goals mentioned by SCA in its strategic plan 2016-2020 is to strengthen the entity which is responsible for creating more job opportunities for prisoners.

45. Recommendation to take steps as a matter of priority to devise and implement a comprehensive regime of out-of-cell activities for all sentenced prisoners at the High Security Prison. The aim should be to ensure that all prisoners are able to spend a reasonable part of the day outside their cells engaged in purposeful activities of a varied nature (work, preferably with a vocational value; education; sport; recreation/association). Particular attention should be paid in this context to the situation of long-term prisoners.

One of the goals mentioned by SCA in its strategic plan 2016-2020 is to expand the activities of prisoners with particular emphasis to those with longer sentences.

46. Recommendation to strive to enhance the out-of-cell activities available to remand prisoners in all the establishments visited and, where appropriate, in other KCS establishments; the longer the period for which remand prisoners are detained, the more developed should be the regime offered to them. To this end, steps should also be taken to ensure that staffing levels are, where required, increased accordingly.

The prisoners are being offered recreational and sports activities but it is expected to expand in the future according to the strategic plan 2016-2020.

55. Request for information on the measures taken to prevent suicides in KCS establishments.

Regarding the prevention of suicide in prisons, possible steps are taken as follows:

- **The implementation of suicide prevention component of the national strategy for suicide prevention;**
- **Consultant psychiatrist in all prisons**
- **Full-time psychologist in 8 KCS institutions to monitor possible prisoners of suicide;**
- **Training of medical staff for mental health component (all nurses are involved);**
- **Ongoing training of psychologists to promote team work in prisons to prevent suicides**
- **The medical staff began using mental health protocol, unless specific protocols are being prepared in accordance with the Council of Europe.**
- **It has been established a multidisciplinary panel (psychologist, educator, security staff) for cases that are difficult to manage and posing a risk of suicide or self-harm.**
- **Since 1999, out of 47 deaths in prisons, 12 were suicides (25%).**

64. Recommendation to take the necessary steps to ensure that, whenever injuries are recorded in any KCS establishment which are consistent with allegations of ill-treatment made by the prisoner concerned (or which, even in the absence of an allegation, are clearly indicative of ill-treatment), the record is systematically brought to the attention of the competent prosecutor. In this connection, the CPT would like to emphasize that, in accordance with its current standards, the aforementioned procedure should be followed regardless of the wishes of the person concerned.

SCA records all incidents Security Unit and the medical units. In case of suspicion of mistreatment, is informed Kosovo Police who informs the prosecutor, if deemed necessary.

65. Recommendation to take steps in all KCS establishments to ensure that medical examinations of prisoners, whether on arrival or at a later stage, are conducted out of the hearing and – unless the doctor concerned requests otherwise in a particular case – out of the sight of prison officers.

Medical examinations conducted without the presence of officers of KCS and the examination room door remains open only on request of medical staff, security staff can stay in the room (in cases that present high risk).

Recommendation -to introduce in all KCS establishments more appropriate measures for making requests to see a doctor, for instance by arranging daily rounds of nursing staff in the detention areas to collect requests for medical consultations (as was observed at Lipjan/Lipljane Correctional Centre), or by introducing dedicated locked letterboxes for requests for medical consultations to which only members of the health-care team have access.

SCA will take into account this recommendation and in cooperation with the medical staff will make a decision whether it is necessary to establish special boxes only on this issue.

67. Recommendation to put an end to the practice of displaying medically confidential information in public places.

This is not common practice and will not occur or repeated, these promises also were taken by medical staff operating in prisons and that is part of the Ministry of Health.

68. Recommendation to review the staffing situation at Gjilan/Gnjilane and Mitrovica/Mitrovicë Detention Centres, in the light of the understaffed night shifts and the expected increased workload once the courts in the north began functioning again.

With the recent appointment of 25 new officers MDC staffing level is sufficient. Detention centre in Gjilan, regarding new detention center to be opened, were made analyzes of the number of staff in cooperation with EULEX. The required number of staff will be on planning for the 2016-2017 year but this will depend very much on financial opportunities.

70. Recommendation to take steps to ensure that the following precept relating to solitary confinement as a disciplinary sanction is effectively implemented in all KCS establishments:

A prohibition on sequential disciplinary sentences resulting in an uninterrupted period of solitary confinement in excess of the maximum period for a single punishment (i.e. 15 days). Any offences committed by a prisoner which might call for more severe sanctions should be dealt with through the criminal justice system.

If, on the other hand, a prisoner has been sanctioned to disciplinary confinement for a total of more than 15 days in relation to two or more offences, there should be an interruption of several days in the disciplinary confinement.

SCA will also consider this as a best practice that can have a positive effect on offenders who are punished with more than 15 days only for two or more cases.

71. Recommendation addressed to the management of Lipjan/Lipljan Correctional Centre to put an immediate end to the practice of imposing solitary confinement on juveniles as a disciplinary measure.

KCS will ensure that loneliness not be imposed as a disciplinary measure for juveniles.

72. Recommendation to revise the relevant legal provisions so as to ensure that disciplinary punishment of remand prisoners does not include a total prohibition of family contacts and that any restrictions on family contacts as a form of punishment are applied only when the offence relates to such contacts. Further, in respect of juvenile prisoners, there should be no total prohibition of any given form of contact with the outside world (correspondence, visits, telephone) as a disciplinary measure; nor should any form of contact be limited unless the disciplinary offence relates to such contact.

It is not up to the SCA to review the legal provisions (Criminal Code of Kosovo).

73. Recommendation to take steps at Lipjan/Lipljan Correctional Centre and Mitrovica/Mitrovicë Detention Centre and, where appropriate, in other KCS establishments to ensure that the following precept is effectively implemented in practice: self-harm is not included in the list of disciplinary offences in Section 101 of the LEPS and Section 47, paragraph 4, of the LEPS provides that "a professional

multidisciplinary team shall initiate the action necessary to assist [the inmate concerned] to address whatever is causing him or her to be inclined to attempt such action”.

Self-harm is not on the list of disciplinary violations, but the prisoner, his safety could be placed temporarily in special cells that can be monitored. SCA now has created multi-disciplinary team who will deal with these cases.

75. Recommendation to take steps in all KCS establishments to ensure that disciplinary decisions always include the avenues for lodging an appeal; the prisoners concerned should also conform in writing that they have received a copy of the decision.

Each prisoner is provided with a written decision regarding disciplinary punishment but that in most cases is not signed by the prisoners as a sign of dissatisfaction with the punishment, but if it rejected the staff is required to note that the prisoner refused to sign decision accepted. This issue will be given an SCA additional care in order not to have shortcomings in this matter.

76. Recommendation to take steps to ensure that an end is put to the practice of requiring doctors to certify that inmates are fit to undergo solitary confinement. To this end, the relevant rules should be amended accordingly.

Doctors monitor health conditions in solitary confinement, but are not part of the decision making on the application of the measure of solitary confinement. In case of bad state of health, the doctor may recommend termination of the measure.

77. Recommendation to remedy the following shortcomings:

The cells used for solitary confinement at Dubrava Prison and Lipjan/Lipljan Correctional Centre are not equipped with a call system.

The exercise yards used for prisoners subject to solitary confinement at High Security Prison had no means of rest or shelter.

Call centres system will be taken into consideration. KCS will ensure to provide the solitary break in confinement unit at the high-security prison.

79. Recommendation to take the necessary steps to ensure that the following precept is effectively implemented in all KCS establishments: all prisoners should be entitled to a visit of at least one hour every week.

Article 62.1 of the Law on Execution of Criminal Sanctions says: "A convicted person has the right to receive visits at least once a month in

duration of one (1) hour by the husband / wife, child, adopted child, parent,

adoptive parents and other blood relatives in direct line, or in indirect line

up to the fourth degree. '

Currently, inmates receive a minimum of two visits to four visits a month depending on the mode in which they are, which is already more than that is defined by the law.

80. Request for information on possibilities for remedying or at least improving, the situation at both Dubrava Prison and the High Security Prison with regard to the remoteness of both locations, for instance, by providing transport for families to these establishments on a regular basis, or by allowing prisoners to accumulate visit entitlements.

Prisoners in BSL may require from the director to accumulate (collect) two visits per month on a visit. There are no plans for transport services for visitors because it is not possible to make even for the staff working in BSL.

81. Recommendation to take steps at Lipjan/Lipljan Correctional Centre and, where appropriate, in other KCS establishments to ensure that:

Conditions for newly-arrived prisoners do not amount to a solitary confinement-type regime for prolonged periods. Under no circumstances should newly-arrived juvenile prisoners be subjected to such a regime.

Outdoor exercise is provided at all times, including during the induction period, to all inmates in accordance with the relevant legislation.

Further, shorting the maximum period of the admission procedure should be considered.

After admission, the juvenile immediately shall be placed in groups and not subject to solitary confinement type regime. Outdoor exercises shall be provided from the moment of their admission in Correctional Centre in Lipjan.

82. Recommendation to take steps in all KCS establishments to ensure that pepper spray does not form part of the standard equipment of custodial staff and that it is never used in confined spaces.

According to applicable regulations, all officers of KCS are equipped with tear spray.

83 Request for information on the decision-making body or bodies involved in security classification of both remand and sentenced prisoners, the period within which the decision must be reviewed, and the possibilities for appealing the decision.

Supervisory Commission KCS for inmates makes decisions concerning the classification of prisoners. KMP consists of Deputy Director General for Security, Head of Security, Head of Unit escort of prisoners, the Head of Legal Unit, Deputy Director for Safety CC Dubrava, the Kosovo Police, prosecutor and anyone else deemed indispensable by KMP on special occasions. All decisions are reviewed once every 6 months. Decisions regarding the prisoner may appeal to the General Director of the SCA, the regulation is in the review process.

85. Recommendation to take steps to ensure that the procedures stipulated by the relevant legal provisions relating to complaints by prisoners – including the maintaining of a dedicated register – are fully implemented in practice in all KCS establishments.

From a dedicated register is located at all institutions of KCS.

88. Request for information on the drafting of the memorandum of understanding between the Forensic Psychiatric Institute and the KCS with regard to the shared responsibility for ensuring external and internal security at the Forensic Psychiatric Institute by the Ministries of Health and Justice.

A Memorandum of Understanding is applicable as of 4 April 2015

108. Recommendation to carefully select staff assigned to security-related tasks at the Forensic Psychiatric Institute (for Ward C) and to make sure that they receive appropriate training before taking up their duties, as well as in-service courses. Further, during the performance of their tasks, they should be closely supervised by – and subject to the authority of – qualified health-care staff. In addition, it is recommended that if involvement of security staff in health-care related tasks is necessary as a measure of last resort, it should be carefully supervised by a qualified member of the health-care staff.

This is done through the EU project which has funded the construction of the forensic unit.

Recommendation to take steps to ensure that pepper spray does not form part of the standard equipment of KCS staff on Ward C of the Forensic Psychiatric Institute and that it is never used in confined spaces.

Pursuant to applicable regulations, all officers of KCS are equipped with spray. The entire staff is trained for the correct use of spray.

4. OTHER ENTITIES

4.4. Inspectorate for the Inspection of the work in Kosovo Correctional Service

Recommendation to take decisive action to combat the phenomena of corruption and favouritism at Dubrava Prison, as well as in other KCS establishments. In Particular, to strengthen their efforts in this regard through preventive measures, education and the application of appropriate sanctions. In this context, KCS staff and officials working within the penitentiary system should receive the clear message that obtaining or demanding money or other advantages from prisoners is not acceptable and will be punished accordingly; this message should be reiterated in an appropriate form, at suitable intervals.

Recommendation that the management of Gjilan/Gnjilane Detention Centre and the High Security Prison deliver a clear message to all staff that all forms of ill-treatment of prisoners are not acceptable and will be punished accordingly.

Lately there have been some inquiries for certain types of misconduct and disciplinary measures have been taken, so the staff is considered to be aware of the fact that bad behavior is unacceptable and that it is subject to disciplinary action.

Request for information on the results of any investigations carried out in respect of the two following cases mentioned in the report, and of any action taken as a consequence:

Prisoner D.P. claimed to be ill-treated during the night of 8-9 March 2015. An incident report had been sent by the Director to the KCS Inspectorate, recordings of the CCTV camera were decided not to be kept

and the prisoner had contacted the Ombudsperson. It remained unclear whether any administrative/criminal investigation had been initiated in this case.

Prisoner A.A. claimed to be ill-treated on 2 April 2015. This case was being investigated by the KCS Inspectorate, but it remained unclear whether this case had been brought to the attention of the competent prosecutor and a criminal investigation had been initiated.

Regarding this matter are provided clarification in item 32 of this document.

Request for information on the outcome of the initiated criminal investigation, and of any action taken as a consequence, related to the alleged rape of a prisoner by his cell-mates at Dubrava Prison in September 2014.

Regarding this matter are provided clarification in item 34 of this document.

Recommendation to take the necessary steps to ensure that, whenever injuries are recorded in any KCS establishment which are consistent with allegations of ill-treatment made by the prisoner concerned (or which, even in the absence of an allegation, are clearly indicative of ill-treatment), the record is systematically brought to the attention of the competent prosecutor. In this connection, the CPT would like to emphasise that, in accordance with its current standards, the aforementioned procedure should be followed regardless of the wishes of the person concerned.



Ref: 2015 COS-1175

H.E. Mr. Zahir Tanin
Special Representative
of the UN Secretary-General
United Nations Mission in Kosovo

Pristina, 13 May 2016

Subject: Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on their visit to Kosovo in April 2015

Dear Special Representative,

I refer to your letter dated 10 December 2015, whereby you bring to my attention the report by the CPT and emphasise the need for “UNMIK and EULEX to invigorate discussions on developing the necessary modalities between UNMIK, EULEX, OSCE and other stakeholders, to ensure the preparation of a timely response to the CPT”.

UNMIK, EULEX and OSCE staff have since coordinated activities at working level meetings with a view to aiding the work of the CPT. To assist UNMIK in its task with preparing a response to the CPT Report, EULEX staff working with Kosovo Institutions have provided input on the CPT Report with a specific focus on Parts A (Police establishments) and B (Prison establishments). In addition, the EUSR has provided input in relation to questions concerning relevant legislation and the Ombudsperson Institution in Kosovo. EULEX has compiled these various contributions into one document, attached to this letter, in the format of a typical CPT response (“EULEX/EUSR input”).

I trust that you will find this contribution useful. Whilst ownership of the response by UNMIK is clear, I would kindly request that if any EULEX/EUSR input is used in the UNMIK response to the CPT Report, my office be given an opportunity to review this in context before final submission to the Council of Europe.

Any questions regarding the content of the attached contribution should be addressed, in first instance, to Mrs. Marianne Fennema, Acting Head of the Human Rights and Legal Office, EULEX (marianne.fennema@eulex-kosovo.eu).

Yours sincerely,

Gabriele Meucci
Head of Mission
EULEX Kosovo



Annexes:

- 1) EULEX/EUSR input to CPT response.

Cc: Ambassador Jean-Claude Schlumberger
Head of Mission
OSCE Mission in Kosovo

Isabelle Servoz-Gallucci
Head of Office, Pristina
Council of Europe

Samuel Žbogar
Head of the European Union Office in Kosovo/
European Union Special Representative in Kosovo

EULEX/EUSR input to CPT report

I. INTRODUCTION

D. Monitoring of places of deprivation of liberty

Paragraph 6

Request for information on the establishment of a specialised branch within the Ombudsperson Institution and its activities as “National Preventive Mechanism” (NPM) against torture and other cruel, inhuman or degrading treatment or punishment.

The Ombudsperson Institution in Kosovo under legal obligation provided by the new Law on Ombudsperson with a formal decision dated on 14 January 2016 has established the National Mechanism for Prevention against Torture. Three legal advisors and a psychologist have been already assigned, while NPM is expected to be completed with two new members, one of whom shall be a medical physician. Also NPM appointed its leader, and currently they are drafting the work plan and job descriptions.

In 2016 the NPM team has signed MoUs with local NGOs (i.e. Coalition of NGOs on the Rights of the Child) and the NPM in Albania and will continue to conduct study visits in order to exchange best practices.

The NPM team already started monitoring the situation in mental health facilities. Later in the year the NPM with the assistance of qualified NGOs will monitor correctional centres in Dubravë/Dubrava and Lipjan/Lipljan with the findings to be published in a report at the end of the year. [Source: EUSR]

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Police establishments

2. Ill-treatment

Paragraph 9

Recommendation to pursue efforts to combat ill-treatment by the Kosovo Police (KP).

- **All KP officers (including officers of the criminal police) should be reminded that all forms of ill-treatment of detained persons are unacceptable and will be the subject of severe sanctions.**
- **They should also be reminded that no more force than is strictly necessary should be used when effecting an apprehension and that, once apprehended persons have been brought under control, there can be no justification for striking them.**

EULEX has observed many Crowd and Riot Control (CRC) pre-briefings and instruction meetings on how to deal with these situations. During those briefings, CRC recommends the use of minimum force based on the principle of necessity. The number of CRC injured police officers/demonstrators in last year's riots indicates that KP Specialised Divisions are performing their mission bearing in mind the most important principle of public order: the use of minimum force. [Source: EULEX]

Paragraph 11

Request for information in respect of the period from 1 January 2014 to the present time on:

- **The number of complaints of ill-treatment made against KP officers and the number of criminal/disciplinary proceedings which have been instituted as a result.**
- **Information on the outcome of the above-mentioned proceedings, including an account of the criminal/disciplinary sanctions imposed on the KP officers concerned.**

In its Annual Report of 2015 the Police Inspectorate of Kosovo (PIK) noted a further decline from 2014 in criminal cases involving use of force by KP officers resulting in light bodily injury, maltreatment during official duty and intimidation:

- in 2014 there were 31 cases and in 2015 27 cases involving light bodily injury;

- in 2014 there were 25 cases and in 2015 12 cases involving maltreatment during official duty; and
 - in 2014 there were 17 cases and in 2015 eight cases involving intimidation.
- [Source: PIK Annual Report 2015, PIK website]

PIK considers this decline to be the result of frequent inspections undertaken by PIK, qualitative investigations and additional training by KP.

[Source: PIK Annual Report 2015, PIK website]

In 2015 the Department for Reviewing and Managing Complaints of PIK has received 120 complaints related to physical abuse which included the following allegations: ill-treatment during exercise of official duties, bodily injuries and use of force without bodily harm. [Source: EULEX]

Of these 120 complaints 10 complaints were sent to the Professional Standards Directorate of KP for a disciplinary investigation and 110 were sent to the Department of Investigation of PIK. After investigating these 110 complaints sent to the Department of Investigation of PIK, the following statistics were found:

- 33 cases were sent to the Professional Standards Directorate of KP for disciplinary investigations;
- 27 cases were sent to the prosecutor: 16 cases of criminal charges, 10 cases with special reports and one case with an informative report containing nine other cases. By the end of 2015, on two cases criminal indictments were filed, two cases have been closed, in one case the criminal investigation was dismissed and the other cases are in process; and
- 42 cases are currently being treated in the Department of Investigation of PIK. [Source: EULEX]

In 2015 the Professional Standards Directorate of KP has thus received 43 cases for disciplinary investigations in relation to allegations of ill-treatment during exercise of official duties, bodily injuries and use of force without bodily harm. Upon request of EULEX, the Professional

Standards Directorate of KP found and communicated the following two cases on allegations of ill-treatment during police custody;

- In the cases with reference numbers 317-KP-2015 and 318-KP-2015, the accused are two police officers suspected of having used physical force in the interviewing room of the Ferizaj/Uroševac police station towards a citizen, who was invited at the station as a suspect. This case was closed by the Professional Standards Directorate of KP as unfounded, because the state prosecutor had terminated investigations because of lack of facts, and because the Internal Disciplinary Committee of KP closed it as unfounded after reviewing the case.
- In the case with reference number 744-KP-2015, the accused is a police officer suspected of having used physical force in the office of the patrol unit in Ferizaj/Uroševac towards a citizen (the same day the citizen had been invited at the station in the quality of a witness). This case has been announced as pending with the Professional Standards Directorate unit in Ferizaj/Uroševac. The reasoning was that PIK has filed criminal charges against the police officer for the criminal offences of “Light body injury”, sanctioned by Article 188 of the Criminal Code of Kosovo, and “Mistreatment during exercise of official duty or public authorization”, sanctioned by Article 198 of the Criminal Code of Kosovo. [Source: EULEX]

3. Safeguards against ill-treatment

Paragraphs 16 and 17

Recommendation to grant all persons who are deprived of their liberty by the police or who are obliged to remain with the police – for whatever reason – the right of access to a lawyer from the very outset of their deprivation of liberty (i.e. from the moment where the persons concerned are obliged to remain with the police). If necessary, the relevant legal provisions should be amended accordingly.

The majority of the activities of the Police Strengthening Department of EULEX are directed towards the strategic level as it is being stated in the current mandate of EULEX. As a matter of

cause, EULEX therefore does not attend the processes described above and only monitors on operational level in exceptional cases.

However, EULEX has completed a short assessment based on unannounced random site visits of three KP custody suites (Mitrovica South, Pristina & Obiliq/Obilić) looking at the detention, questioning and treatment provision of detained persons. As part of this assessment the protocols relating to the appropriate and accurate recording of custody records was assessed focusing particularly on detainees being notified of their continuing right of access to independent legal advice and access to medical care. As part of the assessment EULEX established KP produced written custody records rather than utilising the Kosovo Police Information System (KPIS). However, it should be noted KPIS does not have currently a bespoke custody record capacity. [Source: EULEX]

Paragraph 17

Recommendation that appropriate steps are taken, in consultation with the Bar Association, to ensure the effectiveness of the system of assistance by a lawyer during the entire period of police custody.

[BLANK]

Paragraph 18

Recommendation to ensure that persons who are deprived of their liberty by the police in a non-criminal context are effectively granted the right of access to a doctor (including to one of their own choice) as from the very outset of deprivation of liberty.

[BLANK]

Paragraph 19

Recommendation to take immediate steps to ensure that, in all police establishments, all medical examinations of detained persons are conducted out of the hearing and – unless the doctor concerned requests otherwise in a particular case – out of the sight of KP officers.

[BLANK]

Paragraph 20

Recommendation to take appropriate steps to ensure that all persons detained by the police – for whatever reason – are fully informed of their fundamental rights as from the very outset of their deprivation of liberty (i.e. from the moment where the persons concerned are obliged to remain with the police). This should be ensured by the provision of clear oral information at the very outset, and supplemented at the earliest opportunity (i.e. immediately upon the arrival of the persons concerned on police premises) by the provision of an information sheet (to be available in appropriate languages) on the rights of detained persons. The persons concerned should be asked to sign a statement attesting that they have been informed of their rights and be allowed to keep a copy of the information sheet.

EULEX has completed a short assessment based on unannounced random site visits of three KP custody suites (Mitrovica South, Pristina & Obiliq/Obilić) looking at the detention, questioning and treatment provision of detained persons. As part of this assessment the protocols relating to the appropriate and accurate recording of custody records were assessed focusing particularly on detainees being notified of their continuing right of access to independent legal advice and access to medical care. As part of the assessment EULEX established KP produced written custody records rather than utilising the Kosovo Police Information System (KPIS). However, it should be noted KPIS does not have currently a bespoke custody record capacity. [Source: EULEX]

Paragraph 21

Recommendation to revise the current regulations and practices as to make it a requirement for every apprehended person to be seen and processed by a designated KP officer, or even a custody officer, before any steps are taken to interview him/her.

EULEX has recommended the cells in the police stations to be used only for the first interview and detainees to be transferred to the regional detention centres afterwards. Upon practice by KP,

this procedure is more efficient and provides more professional treatment to the detainees. [Source: EULEX]

Paragraph 23

Recommendation to amend the relevant legal provisions as to ensure that juveniles are never subjected to police questioning or requested to make any statement or to sign any document concerning the offence(s) they are suspected of having committed without the presence of a lawyer and, in principle, a trusted adult person.

The Kosovo Ministry of Justice has on its Legislative Programme for 2016 - with the deadline of 30 September - the Draft Law on Amending and Supplementing the Code of Juvenile Justice (Draft Law). All recommendations will be taken into account (discussed) in this Draft Law.

The EUSR RoLLS monitors this legislative plan thoroughly and sets the Draft Law under the Legislative Review Mechanism in due process. [Source: EUSR]

24. Recommendation to take steps to ensure that the practice of an individualised contemporaneous recording of events in police custody observed at Mitrovica South Police Station is followed in all other police stations.

EULEX has evaluated the ongoing operational custody processes and can confirm individualized contemporaneous records are produced in all stations when they receive a detainee that was visited. It can be concluded that in the police stations visited the necessary information is being recorded in a systematic manner. The requisite documents are available and in use and all necessary procedures are being followed in line with both KP SOP's and the Kosovo Criminal Procedure Code. One observation would be a minor lack of uniformity between regions relating to process, this will form part of advice provided back to KP by EULEX. [Source: EULEX]

4. Conditions of detention

Paragraph 25

Recommendation to take steps to remedy deficiencies such as poor artificial lighting in the custody cells and cells without a call system at Pejë/Peć Police Station.

[BLANK]

B. Prison establishments

1. Preliminary remarks

Paragraph 28

Request for information on the new structure at Lipjan/Lipljan Correctional Centre for male juveniles subject to an educational measure, which was expected to be completed by the end of 2015.

The handover of the centre for educational measures has been delayed due to constructional issues and is now foreseen for summer 2016. [Source: EULEX]

Paragraph 28

Recommendation to develop solutions to the problem of not having the infrastructure nor the staff resources to deal with the expected influx of remand and sentenced prisoners at Mitrovica Detention Centre (MDC) once the courts in the north began functioning again and request for information on the developments in this regard.

In November 2015, 25 new Kosovo Serb correctional officers graduated from their basic correctional training at the Kosovo Academy for Public Safety in Vushtrri/Vučitrn. With these additional 25 officers, there is a full complement of staff at the MDC. This would allow for an increase of the number of inmates. With the refurbishments completed in 2012, all cells are up to an acceptable standard and therefore the MDC could house a maximum of 79 inmates. An amount of 50.000 euro is available for improvements which will include the creation of a room for free visits.

An issue that will remain is the accommodation at the MDC of both sentenced inmates and inmates subject to detention on remand. However, with the current political situation, it is not possible to transfer sentenced inmates to facilities in the south of Kosovo yet. As far as EULEX is aware, there are currently no indications that a prison complex will be established in the north of Kosovo or in Mitrovica North. [Source: EULEX]

Paragraph 30

Recommendation to take decisive action to combat the phenomena of corruption and favouritism at Dubrava Prison, as well as in other Kosovo Correctional Service (KCS) establishments. In particular, to strengthen their efforts in this regard through preventive measures, education and the application of appropriate sanctions. In this context, KCS staff and officials working within the penitentiary system should receive the clear message that obtaining or demanding money or other advantages from prisoners is not acceptable and will be punished accordingly; this message should be reiterated in an appropriate form, at suitable intervals.

Despite some internal investigations into activities related to corruption, investigations into actions by staff leading to preferential treatment, and issues such as escapes during escorts, this so far has only led to disciplinary measures in some of the cases. KCS has been advised to take more strict measures. [Source: EULEX]

Problems continue to exist with preferential treatment of certain high profile prisoners which present serious obstacles to the further institution-building of KCS. Examples are;

- The abuse of hospitalisation continues amongst certain high profile prisoners, both in frequency and duration. In this regard, EULEX is aware of the preferential treatment given by correctional officers to some 'VIP' inmates allowing them to attend health care services in Pristina for dubious or inexistent reasons, while other inmates are obliged to wait for months to have a medical visit scheduled in the civil hospitals. Pseudo-health-related leaves are used by some high profile inmates as a reason to regularly sojourn outside of correctional premises, in a public hospital with no or very poor correctional surveillance. It is well known that some high profile inmates are allowed to leave the

hospital premises unguarded. The disciplinary reaction against the correctional officers responsible for these breaches is inexistent or far too lenient.

- Some inmates are allowed to have communication devices such as a mobile phone and SIM cards, or even have multiple devices and are able to connect to the internet as well. In addition, some inmates in Dubrava Correctional Centre were/are allowed to use the Dubrava Hospital landline (registered as payphone) to communicate with the outside world. [Source: EULEX]

For the purpose of consistency, EULEX suggests to include in the input on the CPT report the following text of page 21 of the 'European Commission Staff Working Document – Kosovo 2015 Report' dated 10 November 2015: *“Serious concerns remain over corruption and contraband goods in detention centres and some correctional centres, as well as on privileges afforded to certain high-profile detainees. The government needs to urgently address this. Inadequate staffing levels, in particular at the high security prison, remain a concern. There is also concern over the politicisation of appointments to the prison service.”* [Source: European Commission Staff Working Document – Kosovo 2015 Report]

Paragraph 31

Request for information on secondary legislation – as foreseen by section 5, paragraph 3, of the LEPS – with the aim of eliminating corruption, inter alia in KCS and in KCS institutions, through “the promotion and existence of a clear system of rewards and sanctions as part of the implementation of the action programme, development of ethical standards, etc., as a mechanism to fight corruption”.

The Kosovo Ministry of Justice has demanded the KCS to conduct an internal investigation but also initiated investigations at the Kosovo Police for corruption phenomena, actions of the staff leading to preferential treatment, as well as problems like escapes during escorts.

The EUSR RoLLS confirms that there are some internal investigations into corruptive activities as well as investigations into actions by staff leading to preferential treatment as well as issues such as escapes during escorts ongoing; however, to date they have only led to disciplinary

measures in few of the cases. The KCS has been advised to take more strict measures by the Ministry of Justice and by many international actors in Kosovo. Some cases have also been sent to the Prosecutors including the European Union Rule of Law Mission in Kosovo.

The EUSR RoLLS acknowledges that main problems continue to exist with preferential treatment of certain high profile prisoners which present serious obstacles to the further institution-building of the KCS. The abuse of hospitalization continues amongst certain high profile prisoners, both in frequency and duration. Unfortunately, the Ministry of Justice has not taken effective actions to really fight against these problems. [Source: EUSR]

2. Ill-treatment

Paragraph 33

Recommendation that the management of Gjilan/Gnjilane Detention Centre and the High Security Prison deliver a clear message to all staff that all forms of ill-treatment of prisoners are not acceptable and will be punished accordingly.

Recently, several investigations into several types of misconduct have taken place and disciplinary measures have been taken. Therefore, staff are considered to be aware of the fact that misconduct is not acceptable and subject to disciplinary actions. [Source: EULEX]

Paragraph 33

Request for information on the results of any investigations carried out in respect of the two following cases mentioned in the report, and of any action taken as a consequence:

- **Prisoner D.P. claimed to be ill-treated during the night of 8-9 March 2015. An incident report had been sent by the Director to the KCS Inspectorate, recordings of the CCTV camera were decided not to be kept and the prisoner had contacted the Ombudsperson. It remained unclear whether any administrative/criminal investigation had been initiated in this case.**

In the case of inmate D.P. an internal investigation was conducted. The use of force applied by the officers was considered by KCS to be proportionate and necessary to control and calm down the inmate. Therefore, no disciplinary actions were deemed necessary. There was no criminal investigation initiated by KP. [Source: EULEX]

- **Prisoner A.A. claimed to be ill-treated on 2 April 2015. This case was being investigated by the KCS Inspectorate, but it remained unclear whether this case had been brought to the attention of the competent prosecutor and a criminal investigation had been initiated.**

In the case of inmate A.A. an internal investigation was conducted and KCS deemed the force used to be appropriate to the situation. Therefore, no disciplinary actions were taken. There was no investigation conducted by KP. [Source: EULEX]

Paragraph 34

Request for information on the outcome of the initiated criminal investigation, and of any action taken as a consequence, related to the alleged rape of a prisoner by his cell-mates at Dubrava Prison in September 2014.

The criminal investigation was concluded and resulted in a verdict by the court in Pejë/Peć for the three remaining suspects, one suspect committed suicide at the High Security Prison on 25 February 2015. The court convicted the three inmates to six months of detention for failing to report a possible rape. [Source: EULEX]

3. Conditions of detention

a. material conditions

Paragraph 36

Recommendation to take steps to remedy the inadequate storage space for personal belongings in the cells at the High Security Prison.

KCS has been advised by EULEX to look into this matter. [Source: EULEX]

Paragraph 36

Recommendation to take steps as a matter of priority to ensure that the design and layout of the outdoor exercise yards at the High Security Prison are altered, in the light of complaints concerning the blinding reflection of the ground and the walls, the hard ground and the lack of adequate shelter against inclement weather.

The EU Office and UNOPS, during the construction phase, have been advised to undertake action with regards to the exercise yards. [Source: EULEX]

Paragraph 38

Recommendation to remedy shortcomings at Dubrava Prison related to not fully partitioned sanitary facilities, lacking call systems in cells, inadequate storage space, not receiving any bed linen, overcrowding, dangerous improvised wiring and very dilapidated or not functioning essential equipment for preparing food. Further, the CPT recommends that once refurbishment is completed, all multi-occupancy cells in the establishment will provide at least 4 m² of living space per prisoner (without counting the space taken by sanitary facilities).

EULEX has advised KCS to look into this matter. Overcrowding of the cells, after completion of the refurbishments as well as transfer of most top and high risk inmates to the High Security Prison, is no longer an issue. [Source: EULEX]

Paragraph 40

Request for information on the closing of the Pristina Detention Centre and the Gjilan/Gnjilane Detention Centre, which was expected by the end of 2015, and the transfer of the inmates to the new establishments. This is related to the not satisfactory conditions at these two detention centres.

The new Detention Centre in Gjilan/Gnjilane was handed over to the Ministry of Justice on 2 February 2016 and will be taken into use on short notice, which will lead to the closing down of

the old Detention Centre in Gjiilan/Gnjilane. As for the new Detention Centre in Pristina, this is expected to be handed over to the Ministry of Justice early summer 2016. However, the old Detention Centre in Pristina was already closed down in December 2015 and inmates were transferred to other KCS facilities. [Source: EULEX]

Paragraph 41

Recommendation to pursue the plan to close down Pejë/Peć Detention Centre as soon as possible. For as long as the existing premises remain in use, efforts should be made to ensure that sanitary facilities are kept in an acceptable state of repair and that prisoners are offered at least 4 m² of living space per person in all multi-occupancy cells.

Discussions with the Ministry of Justice about the closure of the Pejë/Peć Detention Centre are currently ongoing and a decision by the Ministry of Justice is expected in the near future. There is sufficient space in the annex of the Dubrava Correctional Centre, which is a relatively new building, to house the inmates of Pejë/Peć. The cells in this facility are up to European standards and have sufficient space and natural light. [Source: EULEX]

b. regime

Paragraph 42

Request for information on the comments on the fact that sentenced male juveniles at Lipjan/Lipljan Correctional Centre appeared to be offered usually only some two hours of outdoor exercise per day, rather than the three hours to which they were entitled by law.

The Director of the facility informed EULEX that all juveniles (sentenced, remand and educational measures) generally are out of their rooms after breakfast (08:00 hrs) till 17:00 hrs for education and (outdoor) exercise and are offered the three hours as entitled by law. [Source: EULEX]

Paragraph 43

Recommendation to make the existing workshops (welding, carpentry, plumbing and electrical installation) accessible to more prisoners.

One of the aims mentioned by KCS in their strategic plan 2016-2020 is to enhance the economical unit which is responsible for creating more work opportunities for inmates. [Source: EULEX]

Paragraph 45

Recommendation to take steps as a matter of priority to devise and implement a comprehensive regime of out-of-cell activities for all sentenced prisoners at the High Security Prison. The aim should be to ensure that all prisoners are able to spend a reasonable part of the day outside their cells engaged in purposeful activities of a varied nature (work, preferably with a vocational value; education; sport; recreation/association). Particular attention should be paid in this context to the situation of long-term prisoners.

One of the aims mentioned by KCS in their strategic plan 2016-2020 is to enhance prisoners' activities. [Source: EULEX]

Paragraph 46

Recommendation to strive to enhance the out-of-cell activities available to remand prisoners in all the establishments visited and, where appropriate, in other KCS establishments; the longer the period for which remand prisoners are detained, the more developed should be the regime offered to them. To this end, steps should also be taken to ensure that staffing levels are, where required, increased accordingly.

One of the aims mentioned by KCS in their strategic plan 2016-2020 is to enhance prisoners' activities. [Source: EULEX]

4. Health care

b. staff, treatment and facilities

Paragraph 49

Request for information on the recruitment process for two additional nurses at MDC.

Two additional nurses were appointed on 1 July 2015. [Source: EULEX]

Paragraph 50

Request for information on the recruitment of a psychiatrist in MDC.

A psychiatrist was appointed on 1 July 2015. [Source: EULEX]

Paragraph 51

Recommendation to take immediate steps to ensure that the post of psychologist at Dubrava Prison, which has been vacant since January 2015, is filled.

The vacancy was filled on 2 July 2015. [Source: EULEX]

Paragraph 53

Recommendation to arrange in-service training on relevant issues related to prison health care (including psychiatric care) for health-care staff in all KCS establishments.

[BLANK]

Paragraph 54

Recommendation to take immediate steps to ensure the uninterrupted supply of all essential medicines to KCS establishments, including by authorising the procurement of medication, if necessary, from local sources.

[BLANK]

Paragraph 55

Request for information on the measures taken to prevent suicides in KCS establishments.

Concerning prevention of suicide in prisons the following steps have been taken:

- implementation of the component of prevention of suicide of the National Strategy for Prevention of Suicide;
- a counselling psychiatrist in all prisons;
- a full-time psychologist in eight KCS facilities that monitor possible suicidal inmates;
- training of medical staff for the mental health component (all nurses are included/involved);
- in the process of training the psychologists for promotion of team work in prisons on prevention of suicide; and
- medical staff started using the protocol of mental health while they are also preparing specific protocols in harmony with the Council of Europe.

Since 1999, 12 out of 47 deaths (25%) were suicides. [Source: EULEX]

Paragraph 56

Recommendation to take steps at Pejë/Peć Detention Centre, as well as in all other KCS establishments, to ensure that prisoners who have attempted to commit suicide are promptly examined by a general practitioner and subjected, if necessary, to essential diagnostic procedures.

[BLANK]

Paragraph 57

Recommendation to take immediate steps to review the situation of severely mentally-ill prisoners at Dubrava Prison, in the light of the lack of meaningful occupational or therapeutic activities, apart from pharmacotherapy and regular consultation with a psychiatrist.

[BLANK]

Paragraph 58

Recommendation to put in place harm-reduction measures and to develop a varied programme, linked to public health prevention policy, for the management of drug-addicted prisoners and request for information on any developments in this regard.

[BLANK]

Paragraph 59

Recommendation to discontinue the practice of doctors at the High Security Prison carrying out medical examinations in the prisoners' cells rather than in the health-care unit.

[BLANK]

Paragraph 60

Recommendation to take steps at Dubrava Prison to adapt the premises of the hospital unit to the needs of physically disabled inmates.

[BLANK]

Paragraph 61

Recommendation to take steps at Dubrava Prison and Pejë/Peć Detention Centre to put an end to the practice that common toilets and showers in the medical unit/infirmary had to be cleaned by the patients themselves.

[BLANK]

c. **medical screening**

Paragraph 62

Recommendation to take steps in all KCS establishments to ensure that all newly-arrived prisoners benefit from a comprehensive medical examination (including screening for transmissible diseases).

[BLANK]

Paragraph 63

Recommendation to take steps in all KCS establishments to ensure that the file drawn up after the examination of a prisoner – on admission or during imprisonment – contains:

- i. a full account of objective medical findings based on a thorough examination (supported by a “body chart” for marking traumatic injuries). It would be desirable for photographs also to be taken of the injuries;**
- ii. a full account of statements made by the person concerned which are relevant to the medical examination (including the description of his/her state of health and any allegations of ill-treatment); and**
- iii. the doctor’s observations in light of i. and ii. Above, indicating the consistency between any allegations made and the objective medical findings.**

Further, the results of every examination, including the above-mentioned statements and the doctor’s observations, should be made available to the prisoner and his/her lawyer. In addition, a special trauma register should be kept in every KCS establishment in which all types of injury observed should be recorded.

[BLANK]

Paragraph 64

Recommendation to take the necessary steps to ensure that, whenever injuries are recorded in any KCS establishment which are consistent with allegations of ill-treatment made by the prisoner concerned (or which, even in the absence of an allegation, are clearly indicative of ill-treatment), the record is systematically brought to the attention of the competent prosecutor. In this connection, the CPT would like to emphasise that, in accordance with its current standards, the aforementioned procedure should be followed regardless of the wishes of the person concerned.

KCS logs all incidents at both the security unit as well as the medical units. In case of suspected ill-treatment, KP will be informed. In turn, if deemed necessary, KP will inform a prosecutor. [Source: EULEX]

d. medical confidentiality

Paragraph 65

Recommendation to take steps in all KCS establishments to ensure that medical examinations of prisoners, whether on arrival or at a later stage, are conducted out of the hearing and – unless the doctor concerned requests otherwise in a particular case – out of the sight of prison officers.

Medical examinations are conducted without KCS officers being present and, only at the request of the medical staff, a door to the examination room will remain open. [Source: EULEX]

Paragraph 66

Recommendation to introduce in all KCS establishments more appropriate measures for making requests to see a doctor, for instance by arranging daily rounds of nursing staff in the detention areas to collect requests for medical consultations (as was observed at Lipjan/Lipljan Correctional Centre), or by introducing dedicated locked letterboxes for requests for medical consultations to which only members of the health-care team have access.

EULEX has understood that KCS will take this recommendation into consideration. [Source: EULEX]

Paragraph 67

Recommendation to put an end to the practice of displaying medically confidential information in public places.

This seems to have been an individual mistake and is not common practice within KCS. The Correctional Unit of EULEX has assessed that this is unlikely to happen again. [Source: EULEX]

5. Other issues

a. prison staff

Paragraph 68

Recommendation to review the staffing situation at Gjilan/Gnjilane and Mitrovica Detention Centres, in the light of the understaffed night shifts and the expected increased workload once the courts in the north began functioning again.

With the recent appointment of 25 new officers at the MDC, the staffing level is adequate. For Gjilan/Gnjilane Detention Centre, in light of the new, to be opened detention centre, a staffing analysis has been conducted in cooperation with EULEX. The additional number of staff that needs to be recruited has been forwarded to the management of KCS who needs to take this into consideration for the new budget plans. [Source: EULEX]

b. discipline

Paragraph 70

Recommendation to take steps to ensure that the following precept relating to solitary confinement as a disciplinary sanction is effectively implemented in all KCS establishments:

- **A prohibition on sequential disciplinary sentences resulting in an uninterrupted period of solitary confinement in excess of the maximum period for a single punishment (i.e. 15 days). Any offences committed by a prisoner which might call for more severe sanctions should be dealt with through the criminal justice system.**
- **If, on the other hand, a prisoner has been sanctioned to disciplinary confinement for a total of more than 15 days in relation to two or more offences, there should be an interruption of several days in the disciplinary confinement.**

KCS will take measures to ensure this in all KCS facilities. [Source: EULEX]

Paragraph 71

Recommendation addressed to the management of Lipjan/Lipljan Correctional Centre to put an immediate end to the practice of imposing solitary confinement on juveniles as a disciplinary measure.

KCS will ensure solitary confinement is not imposed as a disciplinary measure for juveniles. [Source: EULEX]

Paragraph 72

Recommendation to revise the relevant legal provisions so as to ensure that disciplinary punishment of remand prisoners does not include a total prohibition of family contacts and that any restrictions on family contacts as a form of punishment are applied only when the offence relates to such contacts. Further, in respect of juvenile prisoners, there should be no total prohibition of any given form of contact with the outside world (correspondence, visits, telephone) as a disciplinary measure; nor should any form of contact be limited unless the disciplinary offence relates to such contact.

The EUSR RoLLS highlights that prohibition of family contacts has not been, and is not, a disciplinary measure in the KCS.

According to the Article 62.1 of the LEPS: "A convicted person shall have the right to receive a visit at least once each month for a minimum of one (1) hour by his or her spouse, child, adopted child, parent, adoptive parent and other relatives by blood in a direct line or in a collateral line to the fourth degree".

To date, according to the KCS statistics, the prisoners receive at least two to four visits per month, depending on the regime in which they are placed i.e. more than defined by the LEPS.

The EUSR RoLLS underlines the importance of developing of a Kosovo-wide reintegration policy which integrates prisoners (detainees) to the community values and aspirations and makes it possible to return to the every-day life after the imprisonment. [Source: EUSR]

Paragraph 73

Recommendation to take steps at Lipjan/Lipljan Correctional Centre and MDC and, where appropriate, in other KCS establishments to ensure that the following precept is effectively implemented in practice: self-harm is not included in the list of disciplinary offences in Section 101 of the LEPS and Section 47, paragraph 4, of the LEPS provides that "a professional multidisciplinary team shall initiate the action necessary to assist [the inmate concerned] to address whatever is causing him or her to be inclined to attempt such action".

Self-harming is not in the list of disciplinary offences. The inmate, for his own safety, can be placed in a special cell to be able to monitor him. Multi-disciplinary teams will be reinstated again by KCS. [Source: EULEX]

Paragraph 75

Recommendation to take steps in all KCS establishments to ensure that disciplinary decisions always include the avenues for lodging an appeal; the prisoners concerned should also confirm in writing that they have received a copy of the decision.

It is common practice that the disciplinary measures from KCS state the ways of appealing to that particular decision. So far, inmates do not yet have to confirm in writing their receipt of a copy. Nevertheless, KCS has been advised to start this process. [Source: EULEX]

Paragraph 76

Recommendation to take steps to ensure that an end is put to the practice of requiring doctors to certify that inmates are fit to undergo solitary confinement. To this end, the relevant rules should be amended accordingly.

The doctors monitoring the health condition during solitary confinement are not part of the decision-making process of imposing the measure of solitary confinement. In case of a bad health situation, the doctor can recommend to end this measure. [Source: EULEX]

Paragraph 77

Recommendation to remedy the following shortcomings:

- **The cells used for solitary confinement at Dubrava Prison and Lipjan/Lipljan Correctional Centre are not equipped with a call system.**
- **The exercise yards used for prisoners subject to solitary confinement at High Security Prison had no means of rest or shelter.**

Installing a call system will be taken into consideration. KCS will ensure means of rest will be provided to the segregation unit. [Source: EULEX]

c. contact with the outside world

Paragraph 78

Recommendation to revise the rules governing remand prisoners' access to the outside world, in the light of the following remarks:

- **Remand prisoners should be entitled to send/receive letters, to receive visits and to make telephone calls as a matter of principle, rather than subject to authorisation by a prosecutor or judge. Furthermore, they should be allowed to receive visits and communicate with family in the same way as sentenced prisoners.**
- **Any refusal in a given case to permit such contacts should be specifically substantiated by the needs of the investigation and be applied for a specified period of time. If it is considered that there is an ongoing risk of collusion, particular visits or phone calls can always be supervised/monitored.**

[BLANK]

Paragraph 79

Recommendation to take the necessary steps to ensure that the following precept is effectively implemented in all KCS establishments: all prisoners should be entitled to a visit of at least one hour every week.

Currently, prisoners receive at least two visits per month, which is more than the current law directs in Article 62 (1) of the LEPS. [Source: EULEX]

Paragraph 80

Request for information on possibilities for remedying or at least improving, the situation at both Dubrava Prison and the High Security Prison with regard to the remoteness of both locations, for instance, by providing transport for families to these establishments on a regular basis, or by allowing prisoners to accumulate visit entitlements.

Prisoners at the High Security Prison can request the Director to accumulate their two visits a month to one visit. There are no plans for a transportation service for visitors. [Source: EULEX]

d. admission procedures

Paragraph 81

Recommendation to take steps at Lipjan/Lipljan Correctional Centre and, where appropriate, in other KCS establishments to ensure that:

- **Conditions for newly-arrived prisoners do not amount to a solitary confinement-type regime for prolonged periods. Under no circumstances should newly-arrived juvenile prisoners be subjected to such a regime.**
- **Outdoor exercise is provided at all times, including during the induction period, to all inmates in accordance with the relevant legislation.**

Further, shortening the maximum period of the admission procedure should be considered.

Juveniles, upon admission, are immediately placed in the group and do not undergo a solitary confinement-type of regime. Also, outdoor exercise is offered from the moment they are admitted to the Lipjan/Lipljan Correctional Centre. [Source: EULEX]

e. security-related issues

Paragraph 82

Recommendation to take steps in all KCS establishments to ensure that pepper spray does not form part of the standard equipment of custodial staff and that it is never used in confined spaces.

Based on the applicable regulations, all KCS officers are equipped with pepper spray. All staff has been trained in the correct use of pepper spray. [Source: EULEX]

Paragraph 83

Request for information on the decision-making body or bodies involved in security classification of both remand and sentenced prisoners, the period within which the decision must be reviewed, and the possibilities for appealing the decision.

The Prisoner Oversight Committee (POC) makes decisions with regard to the classification of inmates. The POC consists of the Deputy Director General for Security, the Head of Security, the Head of the Prisoner Escort Unit, the Head of the Legal Unit, the Deputy Director for Security of Dubrava Correctional Centre, KP, a prosecutor and anyone else that is deemed necessary by the POC in particular cases. All decisions will be reviewed once every six months. There is no appeal possible. Currently, the regulation is under review.

Also in this regard, EULEX is aware that the security classification of inmates is not performed on a normal basis and high profile prisoners are never classified. This appears to be done with the purpose of allowing them to enjoy lower levels of security and restraint measures. [Source: EULEX]

f. complaints and inspection procedures

Paragraph 85

Recommendation to take steps to ensure that the procedures stipulated by the relevant legal provisions relating to complaints by prisoners – including the maintaining of a dedicated register – are fully implemented in practice in all KCS establishments.

A dedicated register is in place in all KCS facilities. [Source: EULEX]

C. Forensic Psychiatric Institute at Pristina University Hospital

1. Preliminary remarks

Paragraph 88

Request for information on the new draft Mental Health Law approved by the Kosovo authorities on 24 March 2015 and the standard operating procedures (SOP) for the Forensic Institute.

The Law on Mental Health No. 05/L-025 was adopted on 24 October 2015 by the Assembly, and entered into force on 08 December 2015. However, to date the Ministry of Health and Ministry of Justice as responsible authorities for ensuring implementation of this Law have not drafted any SOP for Forensic Institute. The Law on Mental Health envisages that the issue of the Forensic Psychiatric Institute be determined by a separate Administrative Instruction which is in process. There is a legal timeframe for its finalisation until December 2016. It falls under the competency of the Ministry of Health to appoint a working group if the Administrative Instruction is introduced in the Administrative Instruction framework approved by the Kosovo authorities. [Source: EUSR/EULEX]

Paragraph 90

Request for information on the plans to construct an extra floor on top of Ward C of the Forensic Psychiatric Institute to accommodate female and juvenile forensic patients.

There are currently no plans for the construction of an extra ward. [Source: EULEX]

3. Staff and treatment

Paragraph 94

Recommendation to take steps at the Forensic Psychiatric Institute to ensure that individualised treatment plans are drawn up for psychiatric patients.

- **The treatment plan should take into account the special needs of acute, long-term and forensic patients including, with respect to forensic patients, the need to reduce any risk they may pose.**
- **The treatment plan should indicate the goals of treatment, the therapeutic means used and the staff member responsible.**
- **The treatment plan should also contain the outcome of a regular review of the patient's mental health condition and a review of the patient's medication.**
- **Patients should be involved in the drafting of their individual treatment plans and be informed of their progress.**

Further, steps should be taken to ensure appropriate coordination between all members of staff involved in the provision of psychiatric care.

[BLANK]

Paragraph 95

Recommendation to take appropriate steps to remedy the shortcoming of occasional problems in the supply of certain essential psychotropic medicines at the Forensic Psychiatric Institute.

[BLANK]

4. Means of restraint

Paragraph 97

Recommendation to take steps to ensure that the precepts regarding the use of means of restraint are included in the standard operating procedures for the Forensic Psychiatric Institute as well as for other psychiatric establishments and that they are effectively implemented in practice. The adoption of the guidelines should be accompanied by practical training on approved control and restraint techniques, which must involve all staff concerned (doctors, nurses, orderlies, etc.) and be regularly updated.

[BLANK]

Paragraph 98

Recommendation to take appropriate steps at the Forensic Psychiatric Institute to guarantee patients' intimacy when using the toilet in a seclusion room (e.g., by adjusting the CCTV camera in such a way that it does not cover the toilet area or that the toilet area is at least blurred out).

[BLANK]

5. Safeguards

Paragraph 100

Recommendation to modify the relevant legal provisions as to require every mandatory review of the court-ordered “measure of mandatory psychiatric treatment in custody” (i.e. at least every six months) to involve not only a written report by the health-care institution and the opinion of an independent expert, but also a court hearing where the defence lawyer and the patient are heard.

[BLANK]

Paragraph 101

Recommendation to take steps at the Forensic Psychiatric Institute to ensure that the following precepts are effectively implemented in practice.

- **Every patient should be informed about the intended treatment and should be given the opportunity to refuse or withdraw his/her consent to treatment or any other medical intervention.**
- **Any derogation from this principle should be based upon law and only relate to clearly and strictly defined exceptional circumstances.**

If necessary, the relevant legal provisions should be amended accordingly.

[BLANK]

Paragraph 103

Recommendation to put in place a system for allowing patients to address complaints confidentially to the management of the Forensic Psychiatric Institute, for instance by installing locked letterboxes for this purpose on each of the three wards and ensuring that only designate personnel have access to them. Information on the system should also be included in the leaflets concerning patients’ rights provided to patients.

[BLANK]

6. Other issues

Paragraph 105

Recommendation to revise the rules governing the access of patients in Ward C of the Forensic Psychiatric Institute to the outside world, in the light of the following remarks:

- They should be entitled to send/receive letters, to receive visits and to make telephone calls as a matter of principle, rather than subject to authorisation by a prosecutor or judge. Furthermore, they should be allowed to receive visits and communicate with family in the same way as other prisoners.
- Any refusal in a given case to permit such contacts should be specifically substantiated by the needs of the investigation and be applied for a specified period of time. If it is considered that there is an ongoing risk of collusion, particular visits or phone calls can always be supervised/monitored.

[BLANK]

Paragraph 106

Request for information on the drafting of the memorandum of understanding between the Forensic Psychiatric Institute and KCS with regard to the shared responsibility for ensuring external and internal security at the Forensic Psychiatric Institute by the Ministries of Health and Justice.

A memorandum of understanding is in place since 24 April 2015. [Source: EULEX]

Paragraph 107

Recommendation to take steps to put an end to the practice of nursing staff on Ward B regularly performing security-related tasks such as body searches and cell searches, for which they had received no specific training.

[BLANK]

Paragraph 108

Recommendation to carefully select staff assigned to security-related tasks at the Forensic Psychiatric Institute (for Ward C) and to make sure that they receive appropriate training before taking up their duties, as well as in-service courses. Further, during the performance of their tasks, they should be closely supervised by – and subject to the authority of – qualified health-care staff. In addition, it is recommended that if involvement of security staff in health-care related tasks is necessary as a measure of last resort, it should be carefully supervised by a qualified member of the health-care staff.

This has been done through the EU-project that funded the construction of the Forensic Psychiatric Unit. [Source: EULEX]

Paragraph 109

Recommendation to take steps to ensure that pepper spray does not form part of the standard equipment of KCS staff on Ward C of the Forensic Psychiatric Institute and that it is never used in confined spaces.

Based on the regulations applicable, all KCS officers are equipped with pepper spray. All staff has been trained in the correct use of pepper spray. [Source: EULEX]

D. Psychiatric Clinic at Pristina University Hospital

Paragraph 111

Recommendation to take immediate measures to ensure that the relevant legal provisions which govern involuntary placement of a civil nature are effectively implemented in practice at the Psychiatric Clinic at Pristina University Hospital and, where appropriate, in other psychiatric establishments. To this end, the competent courts should henceforth be informed, within the prescribed deadline, of all involuntary admissions. In addition, the legal status of all patients at the Psychiatric Clinic at Pristina University Hospital should be

reviewed, and all patients who are currently held there on an involuntary basis should be immediately notified to the competent court.

[BLANK]