

**Report to the Government of  
"the former Yugoslav Republic of Macedonia"  
on the visit to "the former Yugoslav Republic of  
Macedonia" carried out by the European Committee  
for the Prevention of Torture and Inhuman  
or Degrading Treatment or Punishment (CPT)  
from 18 to 27 November 2002**

The Government of "the former Yugoslav Republic of Macedonia" has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2004) 30.

Strasbourg, 9 September 2004

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Copy of the letter transmitting the CPT's report

Strasbourg, 30 April 2003

Dear Ambassador,

In pursuance of Article 10, paragraph 1, of the European Convention for the prevention of torture and inhuman or degrading treatment or punishment, I have the honour to enclose herewith the report to the Government of "the former Yugoslav Republic of Macedonia" drawn up by the European Committee for the prevention of torture and inhuman or degrading treatment or punishment (CPT) following its visit to "the former Yugoslav Republic of Macedonia" from 18 to 27 November 2002. The report was adopted by the CPT at its 50<sup>th</sup> meeting, held from 4 to 7 March 2003.

I would draw your attention in particular to paragraph 139 of the report, in which the CPT requests the national authorities to provide **within six months** a response setting out the action taken upon its visit report. The CPT would ask, in the event of the above-mentioned response being forwarded in Macedonian, that it be accompanied by an English or French translation. It would also be most helpful if the authorities could provide a copy of the response in a computer-readable form.

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

Yours faithfully,

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

**Mr Zvonimir JANKULOSKI**  
Ambassador Extraordinary and Plenipotentiary  
Permanent Representative of "the former Yugoslav  
Republic of Macedonia "  
to the Council of Europe  
13, rue André Jung  
67000 STRASBOURG

## I. INTRODUCTION

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

1. In pursuance of Article 7 of the European Convention for the prevention of torture and inhuman or degrading treatment or punishment (hereinafter referred to as "the Convention"), a delegation of the CPT carried out a visit to "the former Yugoslav Republic of Macedonia" from 18 to 27 November 2002. The visit formed part of the CPT's programme of periodic visits for 2002, and was the second periodic visit to "the former Yugoslav Republic of Macedonia" to be carried out by the Committee<sup>1</sup>.

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

- Silvia CASALE (Head of delegation)
- Eugenijus GEFENAS
- Zdeněk HÁJEK
- Ingrid LYCKE-ELLINGSEN
- Mauro PALMA.

They were assisted by:

- Mark KELLY, Director, Human Rights Consultants, Dublin, Ireland (expert)
- Davor STRINOVIĆ, Medical doctor, Professor at the Institute of Forensic Medicine, Zagreb, Croatia (expert)
- Bashkim ADEMI (interpreter)
- Natalija KUNOVSKA (interpreter)
- Ermira MEHMETI (interpreter)
- Vladimir OGNJANOVSKI (interpreter)
- Jasna ŠOPTRAJANOVA (interpreter)

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

- Fabrice KELLENS (Head of Unit)
- Bojana URUMOVA.

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<sup>1</sup> The first periodic visit took place from 17 to 27 May 1998. The visit report and the responses of the national authorities were published on 11 October 2001 (documents CPT/Inf (2001) 20 and (2001) 21). The CPT also carried out ad hoc visits focussing on police and accountability issues from 21 to 26 October 2001 and from 15 to 19 July 2002; the relevant visit reports (documents CPT/Inf (2003) 3 and (2003) 5) and the response of the authorities to the October 2001 ad hoc visit report (document CPT/Inf (2003) 4) were published on 16 January 2003.

**B. Establishments visited**

3. The delegation visited the following places of detention:

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

- Káfasan Border Police Station
- Kumanovo Police Station
- Ohrid Police Station
- Resen Police Station
- Gazi Baba Police Station (Skopje)
- Karpoš Police Station (Skopje)
- Struga Police Station
- Tearce Police Station
- Tetovo Police Station

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

- Bitola Prison
- Ohrid Prison
- Skopje Prison (including the Educational-Correctional Institution)
- Tetovo Prison

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

- Skopje Psychiatric Hospital (Bardovci)

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

- Demir Kapija Special Institution for mentally disabled persons.

**C. Consultations held by the delegation**

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

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

**D. Co-operation between the CPT and the authorities of "the former Yugoslav Republic of Macedonia"**

5. At *central level*, the CPT's delegation held wide-ranging and fruitful discussions with four Ministers, each of whom had taken office only a few weeks prior to the visit: Ismail DARLISHTA, Minister of Justice, Hari KOSTOV, Minister for the Interior, Ilinka MITREVA, Minister for Foreign Affairs, and Rexhep SELMANI, Minister of Health.

The November 2002 visit marked the first occasion on which a CPT delegation has been received by a Minister for the Interior in "the former Yugoslav Republic of Macedonia", a noteworthy and encouraging development given the continuing problem - which has been repeatedly highlighted by the Committee - of ill-treatment of persons deprived of their liberty by security forces under the Ministry of the Interior. Indeed, Mr KOSTOV devoted a considerable amount of time to the meeting; the exchange of views with him was extremely frank and his evident concern for existing problems and willingness to address them were most welcome.

More generally, the recently-appointed Ministers manifested an unprecedented candour in terms of recognising the seriousness of the Committee's findings regarding ill-treatment and impunity, and pledged to tackle those problems through all means at their disposal. This is a positive first step towards rectifying the situation.

6. The delegation also met Maksut ALI, Deputy Minister for Labour and Social Policy, as well as other senior officials of each of the Ministries responsible for areas falling under the CPT's mandate. As regards, more particularly, the Ministry of the Interior, interesting discussions were held with Goran ZDRAVKOVSKI, Commander of the Unit for Special Assignments ("Tigers"), and Toni STANKOVSKI, Deputy Commander of the Special Police Unit for Rapid Intervention ("Lions").

The CPT wishes to express its appreciation for the high quality of co-operation with Vasile JANESKI, Director, and other representatives of the Unit for Professional Standards (EPS) of the Ministry of the Interior.

7. In the course of meetings held with *judicial and prosecuting authorities* including Jordan DESKOVSKI, President of the Republic Judicial Council, Vladimir SMIČKOVSKI, Acting Prosecutor-General, as well as judges and prosecutors at local level, the delegation was provided with all the documentation it requested and was able to engage in open discussions with the officials concerned. The CPT acknowledges the role of the Ministry of Justice in facilitating the continuing progress in cooperation with those authorities.

8. The cooperation received at *places of deprivation of liberty* was, on the whole, very satisfactory; the delegation met with a good or even excellent reception and obtained all the assistance it required in the establishments visited. However, the situation encountered in respect of the *Directorate for Security and Counterintelligence (UBK)* mars an otherwise positive assessment of the cooperation experienced during the November 2002 visit.

9. Given that problems had been encountered in the operative units of the UBK in the past (cf. paragraph 10 of CPT/Inf (2003) 3), the delegation sought to clarify certain matters at the outset of this visit, during the official talks at the Ministry of the Interior (on 19 November 2002).<sup>2</sup> It emphasised, in particular, that it was entitled to be provided with the same facilities when carrying out its task in UBK operative units as in any other place where persons may be deprived of their liberty by a public authority: access to premises and to information (documentation, etc.) relating to the CPT's mandate, as well as the opportunity to interview in private any persons deprived of their liberty. The delegation received assurances from the Head of the UBK, in the presence of the Minister for the Interior, that it would experience no impediment when carrying out its task in UBK operative units; to this end, the Head of the UBK agreed that clear written instructions would be addressed forthwith to each unit, setting out the powers and the competence of the CPT and the facilities with which the delegation was to be provided. Those assurances were not honoured, and cooperation difficulties with the UBK did arise in the days which followed.

10. On 23 November 2002, the Head of the Kumanovo operative unit of the UBK (which is located in Kumanovo Police Station) obstructed the delegation's work, restricting access to premises and denying access to documentation. Having sought by telephone the assistance of the CPT's liaison officer - who facilitated contact with the Head of the UBK - the delegation was eventually able to visit the premises. However, the act of restricting access to them constitutes a clear violation of Article 8, paragraph 2 (c) of the Convention, which stipulates that "[a] Party shall provide the Committee with [...] unlimited access to any place where persons are deprived of their liberty, including the right to move inside such places without restriction."

There was no resolution of the problem of denial of access to documentation in the Kumanovo operative unit of the UBK, despite direct telephone contact between the delegation and the Head of the UBK, who failed to honour his earlier commitment. Further difficulties as regards the provision of information relating to the CPT's mandate arose in Skopje on 25 November 2002 when the delegation met two other senior UBK officers, the Head of the Gazi Baba operative unit and the Head of Skopje Directorate of the UBK. Those officials made persistent attempts to avoid providing full and accurate information to the delegation, including as regards a specific case of ill-treatment of a person by UBK officers in Gazi Baba Police Station, which had already been investigated by the Internal Control Department of the Ministry of the Interior (cf. paragraphs 22 to 24 of CPT/Inf (2003) 3). The approach adopted by the UBK in the above-mentioned situations is not in conformity with Article 8, paragraph 2 (d), of the Convention, which obliges States to provide "[...] other information available to the Party which is necessary for the Committee to carry out its task."

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<sup>2</sup> The meeting in question was attended by the Minister for the Interior, the Deputy Minister, the State Secretary, the Director of the Bureau for Public Security, the Head of the Police Division, and the Head of the UBK, as well as three members of the CPT's delegation, including the President of the Committee.

11. The delegation brought the foregoing matters to the attention of the authorities present at the end-of-visit talks. In her letter of 13 December 2002 to the Permanent Representative of "the former Yugoslav Republic of Macedonia" to the Council of Europe, the President of the CPT recalled the commitment made on 19 November 2002 to issue authoritative written instructions regarding the Committee to all UBK operatives, and requested that a copy of the same be provided at the earliest opportunity.

The Ministry of the Interior did issue instructions<sup>3</sup> concerning the CPT to UBK units in January 2003, a copy of which was transmitted to the Committee on 14 February 2003. The CPT trusts that those instructions will prevent the recurrence of difficulties such as those described in the preceding paragraph, and will ensure the full cooperation by all UBK operatives in the context of future visits carried out by the Committee.

12. The delegation was concerned to note that, throughout the country, many members of the security forces under the Ministry of the Interior lacked familiarity with previous CPT reports, despite the fact that the two most recent reports had focussed precisely on serious police-related problems. In this respect, the CPT would like to underline the importance of Parties bringing the contents of the report drawn up by the Committee after a visit to the attention of all the relevant authorities and staff, in an appropriate form. It would also be desirable to make use of the reports on CPT visits in the training of the different categories of staff working with persons deprived of their liberty.

In this connection, the CPT welcomes the proposal, referred to in the response by the national authorities to the report on the October 2001 ad hoc visit, for a seminar for judicial, prosecutorial and Ministry of the Interior officials concerning the powers of the Committee and the obligations of the authorities under the Convention. **The CPT wishes to be informed about plans for the realisation of that proposal.**

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13. "The former Yugoslav Republic of Macedonia" has entered a new phase following a particularly difficult period marked by the 2001 crisis and its aftermath. This moment presents an opportunity for the national authorities to demonstrate that it is possible to make resolute strides towards establishing the rule of law. Reaching this goal will not be possible without a renewed impetus in the struggle against the persistent and seemingly intractable problems of ill-treatment and impunity. The CPT very much hopes that those authorities will seize the opportunity before them.

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<sup>3</sup> The document concerned was labelled as "Internal instruction No. 35 concerning conduct of the relations with the European Committee for the prevention of torture and inhuman or degrading treatment or punishment".

The following steps should be taken as a signal of the will to change the status quo:

- implementing the CPT's recommendations on combating impunity (cf. paragraphs 28 to 33 below);
- implementing the CPT's recommendations on safeguards against ill-treatment (cf. paragraph 36 below).

Unless the national authorities take the steps identified by the CPT without delay, the Committee will have no option but to consider making a public statement under Article 10, paragraph 2, of the Convention.<sup>4</sup>

14. The CPT has already called upon the authorities of "the former Yugoslav Republic of Macedonia" (cf. paragraph 40 of CPT/Inf (2003) 3 and paragraph 13 of CPT/Inf (2003) 5) to ensure that a statement at the highest political level be addressed to law enforcement officials, impressing upon them that the ill-treatment of detained persons is an affront to the values which constitute the very foundations of the State and will not be tolerated. Such a statement should make clear that any law enforcement officials who disregard this principle will be subject to severe sanctions.

On 20 February 2003, the national authorities transmitted a letter to the CPT containing an "Extract from the Draft minutes of the 17th session of the Macedonian Government, held on 10 February 2003". The minutes - which were copied to the Ministries of the Interior, Justice, Health, and Labour and Social Policy - set out the following conclusions reached by the Government as regards the CPT's July 2002 visit report and the preliminary observations made by the delegation at the end of the November 2002 visit:

"1. The Government of the Republic of Macedonia is firmly determined to overcome the problems identified in the reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and to act on its recommendations, which is in full conformity with the Government's permanent commitment to the functioning of the rule of law in the Republic of Macedonia.

2. The Government of the Republic of Macedonia points out that the ill-treatment of persons held or detained by law enforcement officials is contrary to the fundamental values on which a democratic society is based, to the respect of human rights and to the rule of law; such phenomena will not be tolerated, and those who perpetrate them will be subject to severe sanctions as prescribed by law.

3. The Ministry of the Interior to investigate all cases of ill-treatment or improper behaviour by law enforcement officials identified in the reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, and to take appropriate action. In this context, it should be noted in particular that there is a need for further intensive cooperation between this Ministry and the Committee, especially as regards the Directorate for Security and Counterintelligence, the functioning of the latter being the subject of many critical remarks made by the CPT.

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<sup>4</sup> Article 10, paragraph 2 reads as follows: "If the Party fails to co-operate or refuses to improve the situation in the light of the Committee's recommendations, the Committee may decide, after the Party has had an opportunity to make known its views, by a majority of two-thirds of its members to make a public statement on the matter". The Committee has resorted to this measure on three occasions in thirteen years (cf. documents CPT/Inf (93) 1, (96) 34 and (2001) 15).

4. The competent Ministries to act according to the recommendations made in the Committee's report on its July 2002 visit and, in cooperation with the Ministry of Foreign Affairs, which is the coordinator of cooperation with the European Committee for the Prevention of Torture, to prepare a response to the Committee's report on the November 2002 visit.

5. The Ministry of Foreign Affairs regularly to inform the Government of the Republic of Macedonia on the cooperation with the European Committee for the Prevention of Torture."

The above conclusions constitute a positive step. **The CPT would like to receive confirmation that their full substance has been transmitted in an appropriate form to all relevant authorities (law enforcement officials, judicial and prosecuting authorities, etc.).**

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

15. At the end-of-visit talks on 27 November 2002, the delegation made two immediate observations under Article 8, paragraph 5, of the Convention. Those observations were confirmed in a letter dated 13 December 2002 addressed by the President of the CPT to the Permanent Representative of "the former Yugoslav Republic of Macedonia" to the Council of Europe.

16. The first immediate observation concerned the situation found in Skopje Psychiatric Hospital (Bardovci). The delegation indicated that the lives of the patients would be at risk if an immediate solution were not found to the problem of ensuring heating of the wards. It requested the national authorities to immediately provide the financial resources for meeting the basic needs of patients and to inform the Committee within one month about the action taken.

By letter of 27 December 2002, the national authorities informed the CPT that arrangements had been made to purchase a substantial quantity (55 tons) of fuel oil for the needs of the Skopje Psychiatric Hospital, and that delivery had started on 27 November 2002. The CPT acknowledges the swift response of the authorities to its first immediate observation.

17. As for the Special Institution in Demir Kapija, an immediate observation was made concerning the situation found in the C Wards. The delegation had found that an atmosphere of utter neglect and abandonment prevailed in those wards, and that the living conditions of the patients placed in them could be said to amount to inhuman and degrading treatment. It requested the national authorities immediately to carry out a joint inspection, under the auspices of the Ministry of Labour and Social Policy and the Ministry of Health, and to inform the CPT within three months of the results of the inspection and the measures taken in response. The above-mentioned letter of 27 December 2002 (cf. the preceding paragraph) made reference to discussions between those Ministries regarding the composition of a joint inspection team; the CPT trusts that it will receive a response to its second immediate observation as soon as possible.<sup>5</sup>

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<sup>5</sup> On 12 March 2003, the CPT received a further letter from the national authorities, containing information on the results of the joint inspection. The content of that letter will be examined in due course together with the response to the present report (cf. paragraph 139).

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

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

#### **1. Preliminary remarks**

18. The following sections outline the situation found in November 2002. The specific measures required to tackle ill-treatment and impunity have already been set out in previous CPT reports, most recently in the reports on the ad hoc visits in October 2001 (cf. CPT/Inf (2003) 3, paragraphs 35 to 64) and July 2002 (cf. CPT/Inf (2003) 5, paragraphs 13 to 48). The need to apply those measures diligently is no less valid today.

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

19. As was the case during previous visits to "the former Yugoslav Republic of Macedonia", the delegation gathered information from a variety of sources around the country concerning ill-treatment - in certain cases, of such a severity that it could be considered to amount to torture - allegedly inflicted on persons deprived of their liberty by security forces under the authority of the Ministry of the Interior, including regular police, criminal police, and personnel from the UBK and the Unit for Rapid Intervention ("Lions"). The delegation found evidence of recent ill-treatment of persons who had come into contact with the law enforcement agencies under a variety of circumstances, in different parts of the country.

The panoply of methods of ill-treatment alleged was much the same as that encountered during previous CPT visits. The delegation received numerous allegations of beatings, some of them severe or sustained enough to induce loss of consciousness and/or lasting sequelae. Apart from allegations of punches and kicks on various parts of the body, there were many allegations of beatings with batons, metal rods, firearm butts, wooden sticks, shovel handles and baseball bats, which involved - in certain cases - the infliction of repeated blows on the gluteal region and/or the soles of the feet. Some persons also alleged that they had been threatened with loaded, cocked firearms pointed at and pressed against their temples.

In a significant number of cases, the delegation gathered medical evidence which was consistent with the accounts of ill-treatment received. In certain cases, the delegation was also able to verify that the persons concerned had been held in police establishments during the periods to which the injuries in question could be ascribed. A number of those persons accurately identified the police officers who had questioned them and/or described the physical setting in the relevant police stations. Once again, the delegation found unlabelled objects - corresponding to the descriptions given by the persons concerned of the implements allegedly used to ill treat them - in different police stations, e.g. Kumanovo (metal rods ranging from 75 to 90 cm in length and from 0.75 to 2 cm in diameter) and Struga (a baseball bat, a 70 cm iron crowbar, and 2 wooden sticks measuring between 80 and 90 cm in length and 2 cm in diameter).

20. The following cases of alleged ill-treatment by security forces under the Ministry of the Interior have been selected for their illustrative value. They do not constitute an exhaustive list of all such cases encountered and/or investigated by the delegation during the November 2002 visit; in fact, it is important to recognise that they represent but a small fraction.

#### Case 1

21. A prisoner stated that he was beaten by police officers at the time of his arrest on 26 August 2002 in Gostivar and whilst detained at a Ministry of the Interior establishment in Skopje, which he could not identify with certainty. He was allegedly struck on various parts of the body in an office in the establishment concerned; during this time, his head was reportedly covered with a sack. The prisoner's medical file at Skopje Prison recorded that on examination on 28 August 2002, he displayed: "Haematoma over the entire area of the left elbow. Two clearly delineated haematomas on the left part of the back at shoulder-blade level. Haematomas on both soles. Intensely marked haematomas covering the entire area of both buttocks. Subjectively, the person complains of pain on the right side of the back, though there are no visible signs of injury on that area." In the view of the delegation's doctors, the injuries recorded are consistent with the person having sustained a heavy beating in the manner which he described.

The person was remanded in custody on 28 August 2002 by order of Basic Court I in Skopje; he claimed that the investigating judge "saw that [he] had been beaten".

#### "The highway cases"

22. The CPT's delegation examined a series of cases of alleged ill-treatment of motorists and passengers apprehended by security forces patrolling the highway between Gostivar and Tetovo and the surrounding area<sup>6</sup> during the night of 29 to 30 August 2002. It was alleged that regular police were stopping motorists who sought to enter the highway and re-directing them towards the "old" Gostivar-Tetovo road, where security forces - including members of the "Lions" Special Police Unit - were present in significant numbers. A considerable number of the persons stopped along this alternate route were allegedly beaten by "Lions" on the spot; certain of them were taken to Karpoš Police Station in Skopje (with their heads covered during transport), where the beatings continued.

The information-gathering activities undertaken in relation to the highway cases included, inter alia: visits to Karpoš Police Station; examination of police, prison and medical records, as well as judicial files; and interviews with the judge before whom certain of the persons had been brought. The delegation was able to ascertain the involvement of "Lions" in the apprehension of the persons concerned, as well as in their transport to Karpoš Police Station; further, it was confirmed that the UBK played a role in the persons' interrogation at the station. The medical evidence collected was consistent with the allegations of ill-treatment made by the persons deprived of their liberty in those cases; two such examples (Cases 2 and 3) follow.

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<sup>6</sup> A large number of security forces had been deployed in the area following an episode of hostage-taking of five civilians by an armed group.

Case 2:

23. A person alleged that he was assaulted by special police officers ("Lions") at the time of his arrest on 30 August 2002 near the village of Žerovjane, in the police vehicle during his subsequent transport to Skopje, and whilst detained in a large room in the basement of Karpoš Police Station. He claimed, inter alia, that he fell to the ground after being struck on the head with a shovel handle at the time of his apprehension, and that he had difficulty breathing after being kicked in the chest by a masked officer at the station. The delegation verified that in the early hours of 31 August 2002, the person had been brought by the police from Karpoš Police Station to the Military Hospital in Skopje. His hospital records indicated that he displayed "contusion of the head and the right thorax", and that he underwent x-ray examination of the head and chest; however, there was no record at the Military Hospital of the results of that examination. Nevertheless, the delegation's doctors were able to examine records made following a second x-ray examination (performed in another health institution on 6 September 2002); those records indicated that the person displayed fractures of ribs 4 and 5 on the right side and haemothorax. In the view of the delegation's doctors, the injuries recorded are consistent with the person's allegations of having been beaten in the manner which he described.

An examination of the relevant police files confirmed that the person was taken to Karpoš Police Station by officers of the Special Police Unit for Rapid Intervention ("Lions") at 7.45 am on 30 August 2002; however, the names of the police officers who brought him to the station were not recorded.<sup>7</sup> Certain of the records concerning the person's police custody contained references to and/or were signed by a UBK officer from the operative unit located in Karpoš Police Station; they included an entry in the daily logbook, signed by the same officer, to the effect that the person "refused to talk". The same UBK officer was mentioned and/or had signed records concerning the custody of other persons apprehended in the course of the same operation.

The person was brought before an investigating judge at Basic Court I in Skopje at 3 pm on 31 August 2002, and was remanded in custody. According to the case file - which was examined by the delegation - he stated in the presence of the investigating judge and the public prosecutor that he was beaten whilst in police custody, and that he subsequently received medical treatment at the Military Hospital for the injuries sustained.<sup>8</sup> The person also alleged that, at the time of his appearance at Basic Court I, his injuries were visible, and his clothing caked with blood. Despite this, no action to investigate the alleged ill-treatment - or the unlawful detention (in excess of 24 hours) - was undertaken by the judge or the public prosecutor.

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<sup>7</sup> There was also a discrepancy of 13 hours between the time of arrival recorded in the daily logbook and in the recently-introduced standardised custody register "Register for Persons Summoned, Brought In, and Detained" (in Macedonian, *Register za povikani, privedeni i zadržani lica*) (cf. in this regard paragraph 36 below).

<sup>8</sup> The relevant extract of the person's statement is the following: "[...]At the police station they forced me to sign a statement [...] the signature is mine however the police forced me to sign by using force, and I signed out of fear. [...] As I said the police ill-treated me. I have injuries on my head and last night I was given medical treatment at the Military Hospital.[...]"

### Case 3

24. Another person alleged that he was assaulted at the time of his apprehension on 30 August 2002 by "Lions" deployed at the "old" Gostivar-Tetovo road and whilst detained in the basement of Karpoš Police Station. Once outside his vehicle, he was allegedly made to kneel on the ground with his hands tightly cuffed behind his back, and kicked and beaten on the head and torso. He claimed that, after he was brought to the station, local officers banged his head against a wall and kicked him.

The police files examined by the delegation confirmed that the person was brought to Karpoš Police Station at 7.45 am on 30 August 2002 by members of the "Lions" Special Police Unit. He was released at 3 pm on the same day, after which he went to the State Hospital in Skopje for medical examination and treatment; the hospital records indicated that he displayed "*Contusiones capitis et corporis. Commotio cerebri. Visible contusions on the arms and chest. Head sensitive on palpation (frontal region). [...]*". In the view of the delegation's doctors, all of those injuries are consistent with the person's allegations of having been beaten in the manner which he described.

### Case 4

25. A prisoner claimed that he was assaulted by police officers at the time of his arrest on 20 November 2002 and whilst detained at Stenje Border Police Station. At the station, he was allegedly punched, kicked and beaten with a wooden object. When examined by one of the delegation's doctors on 22 November 2002, the person displayed 5 fresh, violet-blue irregular haematomas 4 cm in diameter over a 10 x 15 cm area on the left side of the head, below the ear towards the chin and neck; further, his left shoulder was painful. In the view of the delegation's doctor, the injuries resulted from multiple blows inflicted with blunt and hard objects (e.g. fists, kicks, wooden sticks) and are consistent with the person's allegations of having been beaten in the manner which he described.

The person was remanded in custody on 21 November 2002 by order of the Basic Court in Resen; he indicated that the judge told him to "seek a doctor" for his injuries.

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26. It should be added that after the November 2002 visit, the Committee has continued to receive reports of ill-treatment by law enforcement officials. A recent example concerned Kumanovo Police Station, one of the establishments which has been implicated repeatedly in this regard (cf. for example paragraphs 25, 26 and 35 of CPT/Inf (2003) 3 and paragraph 19 above). According to the information received, on 7 February 2003, two men were beaten by plainclothes police officers (criminal police inspectors) at the time of their apprehension and whilst detained at Kumanovo Police Station. Following the incident, the commander of the station reportedly assured the victims (who apparently possessed medical certificates documenting the injuries sustained) that the officers concerned would be disciplined, and requested them not to make a criminal complaint. **The CPT would like to receive further information concerning that incident, and the measures taken in response.**

27. On the basis of all the information obtained by the CPT before, during and after the November 2002 periodic visit, the Committee can only conclude that the physical ill-treatment of persons deprived of their liberty by law enforcement agencies in "the former Yugoslav Republic of Macedonia" continues to be a serious problem, nearly five years after the first periodic visit when similar conclusions were reached (cf. paragraph 16 of CPT/Inf (2001) 20). In other words, the situation has not improved.

### 3. Combating impunity

28. In the report on the July 2002 ad hoc visit (cf. paragraph 28 of CPT/Inf (2003) 5), the CPT concluded that, even when detained persons in "the former Yugoslav Republic of Macedonia" do indicate to an investigating judge and/or a public prosecutor that they have been ill-treated, there is no guarantee that an effective inquiry will be set into motion. The inaction of those authorities (and of investigating police officers) has fostered a climate in which law enforcement officials minded to ill-treat persons have come to believe - with very good reason - that they can do so with impunity.

The delegation which carried out the November 2002 visit re-examined the question of whether police officers, judges and prosecutors are meeting their obligations to ensure that allegations of ill-treatment by law enforcement officials are properly investigated and pursued. To this end, discussions were held with the Acting Prosecutor-General, the President of the Republic Judicial Council, as well as police, prosecution and judicial authorities at local level. Further, the operation of internal accountability procedures was assessed via the examination of files and discussions with the Director and senior officials of the Unit for Professional Standards (EPS) at the Ministry of the Interior.

29. It should be recalled that, under Macedonian law, all persons deprived of their liberty must be brought before an investigating judge within 24 hours of being deprived of their liberty. This provides a valuable opportunity for persons deprived of their liberty to indicate whether or not they have been ill-treated by law enforcement officials. Even in the absence of an express complaint, the moment of a person's initial appearance in court places judicial and prosecution authorities in a position directly to observe whether there are other indications (e.g. visible injuries; blood-stained clothing; a person's general appearance or demeanour) that ill-treatment might have occurred and, if so, to take action in good time.

As had been the case during previous visits, many of the persons alleging police ill-treatment indicated that they had tried to complain to the prosecutor or judge before whom they had been brought following a period in police custody, but that those authorities had displayed little or no interest in their complaints (cf. in this regard paragraphs 21, 23 and 25). Others indicated that they had been discouraged from complaining to those authorities, including by their own lawyers, on the grounds that it would not be in their best interests.

The Acting Prosecutor-General confirmed that as from mid-2001, prosecution authorities were no longer receiving information from prisons relating to possible cases of police ill-treatment (cf. paragraphs 35 to 36 of CPT/Inf (2003) 5). Such an approach is not conducive to the prevention of ill-treatment; **the CPT reiterates its recommendation that relevant prosecutors/investigating judges be systematically informed in writing of any findings relating to possible cases of police ill-treatment discovered on a person's admission to the prison system.**

The President of the Republic Judicial Council did not deny the validity of the analysis and conclusions set out in the CPT's previous visit report. In fact, he stated that he was personally convinced that judges do not do anything to find out about torture or protect victims of police ill-treatment. Though he indicated that the presence of a defence attorney during a person's initial appearance before the investigating judge might on occasion act as a safeguard (e.g., the attorney could request that the court order a forensic medical examination of the person alleging police ill-treatment), he maintained that a proactive approach in terms of combating ill-treatment was completely absent from the courts. His opinion was that a clear provision in the Law on Courts was needed in order to authorise the Republic Judicial Council to impose disciplinary sanctions on judges who do not investigate allegations or signs of ill-treatment. **The CPT recommends that serious consideration be given to the introduction of such a provision in the relevant legislation.**

30. The information gathered during the November 2002 visit only serves to confirm once again that, where cases of alleged ill-treatment by law enforcement officials are concerned, judges and prosecutors are not meeting their obligations to ensure that those allegations are properly investigated and pursued.

**The CPT calls upon the authorities of "the former Yugoslav Republic of Macedonia" to ensure that the following precepts are applied in practice:**

- **prosecutors must, in every case where they become aware - in any way - that a person may have sustained injuries while in the custody of law enforcement officials, issue a formal proposal to take action (*predlog za prevzemanje na oddelni istražni dejstviya*) to an investigating judge in order to establish the facts of the case. Formal instructions to this effect should be addressed by the Prosecutor-General to all public prosecutors;**
- **whenever criminal suspects brought before an investigating judge at the end of police custody allege ill-treatment by the police, the judge should record the allegations in writing, order immediately a forensic medical examination and take the necessary steps to ensure that the allegations are properly investigated. Such an approach should be followed whether or not the person concerned bears visible external injuries. Further, even in the absence of an express allegation of ill-treatment, the judge should order a forensic medical examination whenever there are other grounds to believe that a person brought before him could have been the victim of ill-treatment.**

31. A well-designed and properly-functioning system of internal accountability procedures is another key element in the prevention of ill-treatment. In its October 2001 visit report (cf. paragraphs 59 to 64 of CPT/Inf (2003) 3), the CPT analysed the developing regulatory framework for the Unit for Professional Standards (EPS), the body of the Ministry of the Interior responsible for processing complaints against police officers. It is pleased to note that the national authorities have indicated that "[t]he recommendations by the CPT will be fully considered by the EPS [...] with the whole intention of making the police a service to citizens" (cf. page 8 of CPT/Inf (2003) 4). During the visit, the Director of the EPS confirmed that another project to develop the regulatory framework had been initiated, and that any relevant input by the CPT (in the form of an advisory opinion on the proposed regulations) would be fully considered. **The CPT looks forward to receiving a copy of the text being proposed.**

32. During the November 2002 visit, the delegation reviewed the practical functioning of the system of internal accountability procedures by examining 13 cases recently processed by the EPS, involving complaints of ill-treatment, use of force or of means of coercion, and/or abuse of authority by police officers.<sup>9</sup>

The examination of the above-mentioned files revealed that there was considerable room for improvement in the manner in which police complaints were investigated. In most cases, no attempt was made to determine whether the force used by the police officers concerned was necessary or proportionate in the circumstances; in fact, the legitimacy of the use of force was seldom addressed directly. Further, all reasonable steps were not being systematically taken to secure evidence regarding the incidents forming the subject of the complaints. For instance, complainants were sometimes not interviewed.

More generally, the information gathered by the delegation indicated that many persons were not inclined to lodge official complaints against the police, either from fear of reprisals or due to an expectation that no effective action will be taken. In this regard, it also transpired that complaints against the police were not always being recorded in police establishments.

**The CPT recommends that appropriate measures be taken to introduce improved working practices within the EPS, and to ensure that its functions are widely publicised. Apart from the possibility for persons to lodge complaints against the police directly with the EPS, it should be mandatory for the police to register all representations which could constitute a complaint; to this end, appropriate forms should be introduced for acknowledging receipt of a complaint and confirming that the matter will be pursued. Appropriate steps should be taken to ensure that persons who may have been the victims of ill-treatment by law enforcement officials are not dissuaded from lodging a formal complaint.**

33. In the report on the October 2001 ad hoc visit (cf. paragraph 64 of CPT/Inf (2003) 3), the CPT expressed its concern regarding the absence of an effective interface between the investigation of complaints which may be criminal in nature and the initiation of a criminal investigation or criminal proceedings against the police officers concerned. It remained the case in November 2002 that the EPS were not systematically notifying the competent prosecution and/or judicial authorities of cases in which the conduct of police officers might be criminal in nature.

**The CPT reiterates its recommendation that the EPS be required to notify - without delay - the competent prosecution and/or judicial authorities of every case in which the conduct of police officers may be criminal in nature. The decision as to whether or not the conduct of the officers concerned is criminal in nature should be made by the competent prosecution and/or judicial authorities and not by a serving police officer.**

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<sup>9</sup> The delegation examined all such cases from 1 July to 21 November 2002.

#### 4. Issues relating to the Directorate of Security and Counterintelligence (UBK)

34. Over the last few years, personnel from the Directorate for Security and Counterintelligence (UBK) have been implicated in a significant number of the reports relating to alleged ill-treatment by law enforcement officials in "the former Yugoslav Republic of Macedonia" (cf. in this regard paragraphs 22 to 24 of CPT/Inf (2003) 3 and paragraphs 22 and 23 of this document). In many of those cases, the alleged ill-treatment was said to have occurred during interrogation by UBK officers in police stations.

The Law on Internal Affairs, the Regulations<sup>10</sup> and the Instruction<sup>11</sup> for the Directorate for Security and Counterintelligence make no overt reference to deprivation of liberty issues as regards the UBK. In this regard, certain of the CPT's interlocutors in "the former Yugoslav Republic of Macedonia", including at official level, have indicated that the UBK's powers in relation to individuals are not clearly defined. At one point, the authorities envisaged transferring many of the functions of UBK to the Bureau for Public Security, on the ground that Public Security officers are "better-trained" in matters of deprivation of liberty, searches, etc.; however, the 2001 crisis thwarted this initiative. **The CPT would like to be informed whether there have been any further developments in this regard. Further, it would like to be informed whether the Instruction for the UBK issued in August 1998 remains in force.**

Needless to say, any activities of the UBK involving detention should be governed by a solid legal framework incorporating the same procedural safeguards for persons deprived of their liberty (first and foremost, notification of custody; access to a lawyer; access to a doctor; information on rights; proper custody registers) as those which formally apply to the other branches of the Ministry of the Interior. **The CPT would like to be informed whether such legal or regulatory provisions exist, or if instructions to that effect have been issued by the Minister for the Interior. If that is the case, the CPT would like to receive a copy of all such documents. If not, the CPT recommends that appropriate legislation and regulations be enacted at the earliest opportunity and complied with strictly in practice.**

The Law on Internal Affairs<sup>12</sup> stipulates that the work of the UBK is to be supervised by a Parliamentary Commission, which must report to the Government at least once a year. The delegation was informed by senior officials at the Ministry of the Interior that the last annual report to be submitted was in 2000. **The CPT reiterates its request for the 2000 annual report and would like to receive any subsequent reports prepared by the above-mentioned Parliamentary Commission.**

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<sup>10</sup> Promulgated on 30 September 1998.

<sup>11</sup> Issued in August 1998.

<sup>12</sup> Cf. sections 17 to 20 of the Law on Internal Affairs.

## 5. Special police units

35. The "Lions" Special Police Unit for Rapid Intervention has also been implicated in a number of reports involving allegations of ill-treatment and other forms of criminal or improper conduct (cf. paragraph 19 of CPT/Inf (2003) 5 and paragraphs 22 to 24 of this document). Recently, the national authorities have decided to disband the Unit. **The CPT would like to receive further information on the status of this process; in particular, it wishes to be informed of the precise manner in which the redeployment of the former "Lions" is being handled. Further, it would like to receive confirmation that all cases of alleged ill-treatment by former "Lions" are being properly investigated and pursued.**

## 6. Safeguards against ill-treatment

36. The practical application of formal safeguards against ill-treatment is still far from satisfactory in "the former Yugoslav Republic of Macedonia". The CPT is particularly concerned by the continuing lack of compliance with the formal legal and/or regulatory provisions regarding police detention limits, notification of custody, access to a lawyer, access to a doctor, and recording of various aspects of police custody. The specific recommendations on these issues made in previous reports continue to be valid (cf. paragraphs 28 to 46 of CPT/Inf (2001) 20, 47 to 55 of CPT/Inf (2003) 3, and 39 to 45 of CPT/Inf (2003) 5). **The CPT calls upon the national authorities to review those recommendations and ensure that they are systematically followed by all categories of officials under the authority of the Ministry of the Interior.**

As regards, more particularly, the new standardised custody register, it has become increasingly apparent that police officers are not always recording accurately the starting time of a period of deprivation of liberty; this was manifest from the discrepancies found between the entries in those registers and other relevant documentation in police stations (e.g., daily logbooks). **The CPT recommends that the national authorities take decisive steps to ensure the responsible and diligent use of those registers.**

## 7. Material conditions

37. The delegation which carried out the November 2002 visit noted an improvement in the state of hygiene of the cells in some of the police establishments visited; further, many of them had received a fresh coat of paint. Nevertheless, the material conditions of detention in police establishments remained far from satisfactory. Serious deficiencies remained in terms of lighting (for example, in the cells in Ohrid, Struga, and Tetovo Police Stations), cleanliness (Karpoš) and arrangements for providing detained persons with prompt access to functioning lavatories (e.g., at Karpoš and Tetovo).

**The CPT reiterates its recommendation that the relevant authorities rapidly devise and vigorously pursue a properly-resourced strategy to improve conditions of detention in police establishments throughout "the former Yugoslav Republic of Macedonia"; regular independent inspections of police premises should form an integral part of that strategy.**

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

### **1. Preliminary remarks**

38. For the first time in "the former Yugoslav Republic of Macedonia", the CPT examined the situation in remand prisons. The establishments visited were Tetovo, Bitola and Ohrid Prisons (remand sections only), and Skopje Prison (sections for remand and sentenced prisoners). In addition, the delegation paid a brief visit to the Educational-Correctional Institution which is presently located at Skopje Prison.

39. **Skopje Prison**, located in one of the northern neighbourhoods of the capital, has an official capacity of 260, including a 100-place remand section, the largest in the country. The prison was overcrowded at the time of the visit; on 18 November 2002, it held 293 prisoners, 153 of whom were on remand (including 4 male minors and 6 adult women). The sentenced prisoner population consisted of adult men serving short sentences.

**Tetovo Prison** is a comparatively small facility; its remand section has an official capacity of 20, and was accommodating 14 adult men at the time of the visit (21 November 2002).

**Bitola Prison** has a 20-cell remand section, where 17 adult men were being held on 22 November 2002.

**Ohrid Prison** has a remand section with an official capacity of 25; it was accommodating 20 persons (all of them male) at the time of the visit (23 November 2002).

Operations by armed groups in the Tetovo area during the 2001 crisis led to the dislocation of the **Educational-Correctional Institution**, which had been visited by the CPT in its original location in 1998 (cf. paragraphs 47 to 69 of CPT/Inf (2001) 20). The youths accommodated in the institution were at first relocated to Prilep Prison (from 13 August 2001) and afterwards (at the end of 2001) to the building holding sentenced adults in Skopje Prison. On 20 November 2002, 19 male minors and young adults were being held on those premises.

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

40. The delegation gathered no evidence of ill-treatment of inmates by staff in the prisons visited. In fact, many prisoners spoke favourably of the manner in which they were treated by prison officers, and the delegation itself had occasion to observe staff members who had a positive attitude in dealings with inmates. However, a few allegations were heard in the remand section of Skopje Prison about over-zealous application of means of restraint, i.e. handcuffing persons to fixtures (pipes) or furniture (beds), sometimes for prolonged periods and/or in uncomfortable positions. Needless to say, to handcuff a person in an uncomfortable position (regardless of the length of time) is a totally unacceptable means of restraint. **The CPT recommends that measures be taken to impress this point upon staff in Skopje Prison; more generally, custodial staff throughout the prison system should be reminded that no more force than is strictly necessary should be used to control violent and/or recalcitrant prisoners. If appropriate, more detailed guidance on the use of means of restraint should be issued.**

41. As for the Educational-Correctional Institution, certain allegations were heard to the effect that juveniles who misbehaved in one way or another (e.g., by escaping) could be ill-treated by custodial staff. **The CPT recommends that the management of the Educational-Correctional Institution deliver the clear message to custodial staff that the ill-treatment of inmates is not acceptable under any circumstances and will be dealt with severely. Inmates who misbehave should be dealt with only in accordance with the prescribed disciplinary procedures.**

### 3. Staffing issues

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

43. An overall low staff complement which diminishes the possibilities of direct contact with prisoners will certainly impede the development of positive relations; more generally, it will generate an insecure environment for both staff and prisoners. Where staff complements are inadequate, there is a tendency to resort to significant amounts of overtime in order to maintain a basic level of security and regime delivery in an establishment. This state of affairs can easily result in high levels of stress in staff and their premature burnout, a situation which is likely to exacerbate the tension inherent in any prison environment.

Inadequate staffing levels constitute a major problem throughout the prison system of "the former Yugoslav Republic of Macedonia". The situation at Skopje Prison was particularly dramatic; on average, there were only eight prison officers per shift responsible for the entire 153-inmate remand section, including for transport of remand prisoners to and from courts, external medical services, etc. A number of prison officers in different establishments indicated that they frequently felt that their own security was compromised; the recent killing (December 2002) within Tetovo Prison of a prison officer serves as an unfortunate confirmation of the validity of their concerns.

The CPT has noted that the Head of the Prison Service has recently been reported<sup>13</sup> as stating that he considered the situation to be "quite acute"; according to that report, the view of the Prison Service is that a substantial reinforcement of staffing resources must be a first priority in a system-wide quest for solutions to prison problems. To this end, the Ministry of Justice has reportedly requested approval for the recruitment of officers for 62 vacant posts. Further projects are said to relate to improvements for training for newly-recruited prison officers. Those initiatives deserve full support; **the CPT would like to receive further information on their implementation. More generally, the CPT recommends that the relevant authorities conduct a review, without delay, of current staffing arrangements throughout the prison system. The objective should be to ensure that the number of prison officers employed is sufficient to ensure staff safety and the physical and mental integrity of inmates.**

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<sup>13</sup> Article in 18 February 2003 issue of *Dnevnik*.

#### 4. Material conditions

44. The remand section of **Skopje Prison**, which also comprised a smaller closed unit for sentenced prisoners, is a U-shaped structure, dissected along its length by a wall separating two football-field sized exercise yards. The accommodation for remand prisoners consisted of 33 cells in a range of sizes (from 8.6 to 44 m<sup>2</sup>), all of them with in-cell sanitation facilities (fully or partially partitioned). Some of the cells had been recently refurbished and could offer decent conditions of detention when used at their intended occupancy levels (i.e. in compliance with the 9 m<sup>3</sup> minimum space per inmate required by the Law on Execution of Sanctions). However, the establishment was operating well above its formal capacity, and some 30 remand prisoners were sleeping on mattresses on the floor. This inevitably exacerbated the poor conditions of detention observed in the remand section, especially in the cells which had not been refurbished; the worst in this respect were the cells in C wing (located in the right prong of the "U"), which were quite dilapidated, humid and stuffy, as well as having poor hygiene and inadequate access to natural light.

Remand prisoners also had very limited possibilities for bathing (once every 14 days); every effort be made to allow each prisoner (throughout the prison system) at least one hot shower per week.

The closed unit for sentenced prisoners, which was located on the second storey of the base of the "U", had 4 large dormitories accommodating a total of 28 sentenced prisoners (most of whom were on methadone maintenance treatment); there were separate lavatories and showers on the corridor. Though basic, the conditions of detention in that unit were of an acceptable standard.

45. The recently-refurbished building for sentenced prisoners at Skopje Prison consisted of two units, one intended as a semi-open and the other as an open unit. Though the two units had separate entrances and accommodation areas, they did share certain common facilities (e.g., yards). As already mentioned, since the end of 2001, the open unit has been used to accommodate the juveniles from the **Educational-Correctional Institution**; this has led to the placement of all the sentenced adults (whether on semi-open or open regime) in the semi-open unit.

In principle, the dormitory-style accommodation had the potential of offering good conditions of detention for the sentenced prisoners; however, given the occupancy levels prevailing at the time of the visit (due to the unresolved status of the Educational-Correctional Institution), a rapid deterioration of the premises will be difficult to avoid.

46. The remand section in **Tetovo Prison** consisted of eight cramped multi-occupancy cells (six 2-bed cells measuring 5.2 m<sup>2</sup>, and two 9.8 m<sup>2</sup> 4-bed cells) with integral sanitation (partitioned lavatories). The furnishings in the cells were adequate; however, access to natural light was barely acceptable (filtering indirectly through the high windows facing the corridor), and some of the mattresses were filthy.

47. Lack of sufficient space was a glaring deficiency in the cells for remand prisoners at **Bitola Prison**, where the single-occupancy cells (which had on occasion been used to hold two persons) measured 3.8 m<sup>2</sup>, and 6.1 m<sup>2</sup> cells were used to hold three or four persons. The fact that the above measurements also included a semi-partitioned sanitary annex rendered the conditions even worse; although the cells were kept clean and in a reasonable state of repair, the overall impression was that the inmates were living in lavatories.

48. The problem of overcrowding and cramped conditions was also present at **Ohrid Prison**, though to a lesser extent. The remand section consisted of six multi-occupancy (3- or 4-person) cells (measuring approximately 11.3 m<sup>2</sup>) with integral sanitation. The cells had satisfactory levels of hygiene and appropriate furnishings; however, they had no access to natural light. As a partial compensation for this shortcoming, prisoners were allowed relatively generous periods of outdoor time (three periods adding up to about two hours each day) in a small exercise yard.

49. To sum up, serious shortcomings in terms of material conditions of detention - due to an inadequate infrastructure (e.g., the size of the cells at Bitola or the absence of natural light in Ohrid) or to a deterioration of the premises (often exacerbated by overcrowding) - were present in varying degrees in the establishments visited.

**The CPT recommends that serious efforts be made to reduce occupancy levels in remand prisons; the initial aim should be to provide a minimum of 4 m<sup>2</sup> of cell space per person. Where applicable, the partitioning of toilet facilities in multi-occupancy cells should be improved. More generally, the authorities should take all necessary steps - and explore all available channels - with a view to improving material conditions in prison establishments, having regard to the remarks in paragraphs 44 to 48.**

## **5. Regime**

50. A fundamental problem as regards remand prisoners was the total absence of a programme of activities. At the time of the visit, they were being held for up to 23 ½ hours a day in their cells; most establishments did not enable prisoners to enjoy the legal allowance of two hours of outdoor exercise (except at Ohrid Prison). No work, education or sports activities were offered to those prisoners; the deleterious effects of such a restricted regime were exacerbated by the lengthy periods of time for which some persons were being held on remand (in certain cases, up to two years).

The CPT recognises that the organisation of regime activities in remand prisons is not a straightforward matter, in view of the fairly rapid turnover of inmates. Further, the imposition of restrictions on certain remand prisoners, in the interests of the pre-trial investigation, is another complicating factor. However, the current policy of "warehousing" remand prisoners is unacceptable.

**The CPT recommends that the national authorities take steps as a matter of urgency to improve radically the regime activities for remand prisoners. The aim should be to ensure that remand prisoners are able to spend a reasonable part of the day outside their cells, engaged in purposeful activities of a varied nature (group association activities; work, preferably with vocational value; sport). Further, as one of the steps towards alleviating the current situation of remand prisoners, consideration could be given to the possibility of permitting them to keep television sets or radios in their cells. The legislative framework governing remand imprisonment should be revised accordingly and staffing levels increased substantially (cf. in this regard paragraph 43 above).**

**The CPT calls upon the national authorities to ensure immediately that all remand prisoners are offered at least one hour of outdoor exercise every day. Further, outdoor exercise facilities should be sufficiently large to enable prisoners to exert themselves physically.**

51. Activities for sentenced prisoners held in Skopje Prison who had work were satisfactory; work possibilities included woodcarving, metalwork, farming activities (animal husbandry or agriculture/horticulture) as well as maintenance-type work around the establishment (kitchen, canteen, cleaning tasks, etc.). However, prisoners in the closed unit of Skopje Prison were unemployed and kept as idle as their counterparts who were on remand (but for the possibility to watch television in a communal room); **the recommendation concerning regime activities made in the preceding paragraph is to be read as applying equally to them.**

## **6. Medical care**

52. The establishments visited were grossly under-resourced as regards health care staff. For example, Skopje Prison and the Educational-Correctional Institution - which had a combined inmate population of over 300 - had to rely almost exclusively on the services of one part-time doctor. At the time of the visit, an outside psychiatrist also gave consultations at Skopje Prison once a week; the only full-time member of the health care team was a technician. As for the other prisons, none of them had any health care personnel whatsoever; instead, they were relying on outside hospitals for health care services (depending on the establishment, inmates could be taken to a local health care institution for examination and/or treatment, or a doctor would visit the prison once a week).

**The CPT recommends that the authorities take immediate steps to increase (or introduce) health care staff in the establishments visited, paying particular attention to the recruitment of qualified nurses as well as the provision of psychiatric care. More generally, a high priority should be given to reviewing the situation as regards health care staffing throughout the prison system; the CPT would like to be informed of the outcome of that review and of the measures taken in response.**

53. The CPT has repeatedly stressed - including in its July 2002 visit report (cf. paragraphs 33 to 38 of CPT/Inf (2002) 76) - that an efficient prison service can contribute to the prevention of ill-treatment by the police, in particular in establishments which represent points of entry into the prison system. The findings made during this visit indicate that there is an urgent need for improvement in this area.

With the exception of Skopje Prison, none of the establishments visited had a procedure to medically screen newly-arrived prisoners. Prisoners only had contact with a doctor if they had a specific medical complaint; as a consequence, weeks or even months could pass before a newly-arrived prisoner was seen by health care staff at Bitola, Tetovo and Ohrid Prisons. This is a matter of great concern, for a number of reasons.

**The CPT recommends that all newly-arrived prisoners be subject to a proper medical examination within 24 hours of admission.**

Once again, it should be stressed that the record drawn up by prison doctors following a medical examination of a newly-arrived prisoner should contain:

- (i) a full account of statements made by the person concerned which are relevant to the medical examination (including his description of his state of health and any allegations of ill-treatment);
- (ii) a full account of objective medical findings based on a thorough examination; and
- (iii) the doctor's conclusions in the light of (i) and (ii), indicating the degree of consistency between any allegations made and the objective medical findings.

The results of every examination, including the above-mentioned statements and the doctor's conclusions, should be made available to the detained person and his lawyer. Further, the relevant prosecutors and investigating judges should be informed by the Prison Director, in writing, of any findings relating to possible cases of police ill-treatment discovered on a person's admission to the prison system.

## 7. Contacts with the outside world

54. Subject to approval of the investigating judge, remand prisoners may receive visits from members of their family and other persons (section 195 (1) of the Code of Criminal Procedure). The information gathered during the visit indicated that investigating judges were exercising their discretion in this area in a fair manner.

The CPT has already expressed its concerns regarding the possibility to subject a remand prisoner's right of access to a lawyer to supervision (cf. paragraphs 41 and 42 of CPT/Inf (2003) 5). The validity of those concerns was confirmed once again during the November 2002 visit; in each of the remand prisons visited, the administrative files revealed that there were a number of cases where judges were ordering supervision of contacts between prisoners and their lawyers. This practice is contrary to the principle of confidentiality of contacts between remand prisoners and their lawyers; **the CPT recommends that it be reviewed without delay.**

## 8. Issues relating to juveniles

55. The situation of the dislocated Educational-Correctional Institution was totally unacceptable. Though there were efforts to maintain the regime which applied when the institution was located in its original purpose-built facilities in Tetovo, reaching the goal of rehabilitating the minors was undoubtedly undermined by the fact that they were placed in the same building as - and associating with - the sentenced adult population. **The CPT recommends that every effort be made, as a matter of urgency, to relocate the minors to an appropriate centre specifically designed for persons of this age.**

56. The CPT has also noted with concern that juveniles could be held on remand at the establishments visited. The regime offered to these young prisoners was no less impoverished than that of other remand prisoners and, in particular, they were being offered no education. Further, given the problems of overcrowding, it would appear that minors were at times placed in the same cells as adult prisoners. Such a situation is highly unsatisfactory.

57. In the CPT's view, all juvenile prisoners, including those on remand, should be held in detention centres specifically designed for persons of this age, offering regimes tailored to their needs and staffed by persons trained in dealing with the young. **The CPT recommends that the national authorities strive to ensure that juvenile remand prisoners are held in such centres.**

In the meantime, **the CPT recommends that the necessary steps be taken to ensure that juveniles placed in remand prisons are provided with a full programme of educational activities (including physical education) and are accommodated separately from adult prisoners.**

C. **Establishments under the authority of the Ministry of Health and of the Ministry of Labour and Social Policy**

1. **Preliminary remarks**

58. For the first time, the CPT examined the living conditions and treatment of patients in Skopje Psychiatric Hospital, as well as in Demir Kapija Special Institution for mentally disabled persons. The first establishment falls under the responsibility of the Ministry of Health, while the latter falls under the responsibility of the Ministry of Labour and Social Policy.

59. **Skopje Psychiatric Hospital** is located in the village of Bardovci, near the capital. Built some 50 years ago, the hospital is the biggest psychiatric establishment of its kind in the country. It serves a catchment area with a population of about 1 000 000 (mostly from the Skopje, Tetovo, Gostivar and Kumanovo areas).

The institution comprises several one-storey buildings (patient accommodation, kitchen, laundry, workshops, etc.) dispersed over a rather large area surrounded by a low wall. Despite some cosmetic renovation work carried out during the last three years, the hospital was in a general state of disrepair, its buildings affected by leaking roofs, unreliable plumbing, heating problems, an outdated electrical system, etc.

Until recently, Skopje Psychiatric Hospital offered accommodation for some 1100 patients. However, this capacity had been reduced by half with the new de-centralisation policy for psychiatric services<sup>14</sup> introduced with the support of the international community (World Health Organisation, Stability Pact). At the time of the visit, the hospital was accommodating 551 patients (226 acute patients and 325 chronic patients). However, given that a considerable number of patients were on leave, some 100 beds were temporarily vacant.

The visit focused on the two closed wards for acute patients, accommodating the most demanding and aggressive male and female patients. Brief visits were also made to the ward for substance abusers and to the somatic department.

60. **Demir Kapija Special Institution for mentally disabled persons** is the only social care home of its kind in the country. The institution provides accommodation, rehabilitation and health protection to persons (children and adults) with severe and deeply severe mental disabilities, in certain cases combined with psychomotor disabilities; 40 % of the residents were bed-ridden or semi-mobile.

The institution extends over two sites. Most residents were accommodated in the three-building (A, B and C) Health Department, erected in 1958 at the outskirts of the town of Demir Kapija. The secondary facility, built in 1970 on a site at some distance from the town, was called "Depandans" (Annex); it accommodated the most autonomous residents.

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<sup>14</sup> Eight outpatient departments/services had been established in Skopje. These units were not visited by the delegation.

With an official capacity of 440, Demir Kapija Special Institution was accommodating a total of 397 residents<sup>15</sup> at the time of the visit. As was the case for Skopje Psychiatric Hospital, the introduction in 2000 of a de-centralisation and de-institutionalisation policy had greatly reduced the number of admissions; the latter could only take place if there existed no other solution for care and treatment, and each required approval by the Ministry of Labour and Social Policy.

The delegation's visit to Demir Kapija focused on the Health Department; however, a brief visit was also paid to "Depandans".

## 2. Ill-treatment

61. At the outset, it should be clearly stated that - with one exception - the delegation did not receive any allegations of deliberate ill-treatment of patients by staff at Skopje Psychiatric Hospital. In fact, staff-patient relations appeared to be quite relaxed.

The exception involved a case of alleged ill-treatment of a 59-year-old patient from the male acute ward by an orderly, which had taken place a few days before the delegation's arrival and had received extensive media coverage. On the evening of 12 November 2002, the patient - who was suffering from a serious psychiatric disorder and was reportedly aggressive - had allegedly been kicked and beaten by the orderly, in the process of stopping his assault of another patient. In this context, it is particularly relevant to note that, due to the shortage of staff on the male ward, the staff member concerned had been appointed as an orderly<sup>16</sup> three days before the incident and was alone in the ward when it occurred, the nurse who was usually present having been summoned to help in the adjacent ward. On a second occasion, during the night of 14 November 2002, the same patient was allegedly struck with a wooden stick by the same orderly. The patient concerned had subsequently been taken to Skopje City Hospital for examination, where doctors diagnosed a widespread contusion with haematoma, covering half his back, as well as fractures of two ribs (9 and 10) on the left side of the thorax.<sup>17</sup>

The medical conclusions were later confirmed by a medical member of the delegation, after he examined the patient in the somatic ward. Apart from that examination, the delegation reviewed the relevant medical and nursing files, and held interviews with patients, staff members, the Hospital Director and the President of an ad hoc Internal Commission set up after the incidents. The information in its possession led the delegation to conclude that the patient concerned had been the subject of severe forms of ill-treatment by an orderly in the male acute ward during the period of 12 to 14 November 2002.

The delegation was pleased to note that, following the incidents, the Hospital's Disciplinary Board had taken appropriate measures, i.e. by immediately suspending the orderly from service for one month and by setting up the above-mentioned ad hoc Internal Commission to review the incidents, assess the procedures followed and the responsibilities at all levels with a view to preventing such incidents from occurring in the future. The delegation also noted that police and judicial investigations were being conducted.

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<sup>15</sup> Residents were admitted to the institution as from the age of 3, the age distribution being as follows: ages 3-5 (4 residents), 6-10 (23), 11-14 (18), 15-18 (36), 18-26 (61) and 255 over the age of 26. 215 of the patients were men and 182 women.

<sup>16</sup> The person concerned had previously worked as a driver at the hospital and had not received any specific training as an orderly.

<sup>17</sup> When examining the patient's medical file, the delegation observed that he had suffered similar lesions, on the opposite side of the thorax, in 1999.

**The CPT requests that the results of the above investigations, as well as the report of the Internal Commission, be transmitted to the Committee in due course.** In the meantime, the CPT will address later in this report several issues pertaining to the management of incidents in the institution (including the selection and training of orderlies and the use of means of restraint).

62. The situation was of more concern at Demir Kapija Special Institution ("Health Department"), in particular in Wards C1 and C2, where a high level of tension was palpable. Orderlies there openly admitted that they were hitting residents back when confronted with aggressive behaviour. In addition, the delegation found in orderlies' offices instruments (in particular, broken broom sticks) which conformed to the descriptions given by residents of objects used to strike them.

The delegation also observed numerous episodes of violent and aggressive behaviour between residents in those wards; on many occasions, this met with no response from staff. Further, several residents repeatedly exhibited auto-aggression resulting in long-lasting injuries. The most striking example was a totally naked and severely agitated resident in Ward C1, whom the delegation discovered kneeling hidden under a wooden table. The resident concerned was banging the top of his head repeatedly against the table; on his scalp, he had an open bleeding wound approximately 10 cm in diameter, which was evidently not being treated. A disabled young girl in Ward B3 was found to display similarly severe auto-aggressive behaviour.

63. Working with the mentally ill and mentally disabled will always be a difficult task for all categories of staff involved. In this connection it should be noted that health-care staff in psychiatric/social care establishments are frequently assisted in their day-to-day work by orderlies; further, in some establishments a considerable number of personnel are assigned to security-related tasks. The information at the CPT's disposal suggests that when deliberate ill-treatment by staff in psychiatric/social care establishments does occur, such auxiliary staff rather than medical or qualified nursing staff are often the persons at fault. Bearing in mind the challenging nature of their work, it is of crucial importance that auxiliary staff be carefully selected and that they receive both appropriate training before taking up their duties and in-service courses. Further, during the performance of their tasks, they should be closely supervised by - and be subject to the authority of - qualified health-care staff.

**64. The CPT recommends that measures be taken at managerial level in the two establishments visited in order to ensure that staff be reminded, by appropriate means and at regular intervals, that the ill-treatment of patients or residents is not acceptable and will be the subject of severe sanctions. Particular attention should also be given to the selection, training and supervision of auxiliary staff.**

**Special protective measures should also be taken vis-à-vis the severely agitated and auto-aggressive residents mentioned above.**

65. In both establishments, it is also essential that appropriate procedures be in place in order to protect certain patients or residents from other patients or residents who might cause them harm. This requires inter alia an adequate staff presence at all times, including at night and weekends.

The delegation was concerned to note that in both establishments, staffing levels were particularly low during the afternoon and the night shifts. By way of example, only one orderly per ward was present in Wards C1 and C2 at Demir Kapija, each of them accommodating some 30 of the most difficult and violent residents in the institution. A similar situation prevailed in the male and female closed wards at Skopje Psychiatric Hospital, where a nurse and an orderly were taking care of some 50 of the most difficult patients in the hospital.

In the CPT's view, such a low level of staffing can only contribute to inter-patient violence and will inevitably put the patients or residents - as well as the staff - at risk (in addition to contravening the principle of duty of care). **The CPT therefore recommends the authorities to urgently review, in both establishments, the level of staffing in each ward during the afternoon and night shifts, with a view to reinforcing the presence of qualified staff. Particular efforts should be made vis-à-vis the wards accommodating the most aggressive and the most vulnerable patients** (cf. also paragraphs 102 to 104).

Further, **specific arrangements should be made at Demir Kapija for particularly vulnerable residents; they should not be accommodated together with the most aggressive residents (as was the case in C1 and C2 Wards).**

66. It should be noted at this stage that certain aspects of the living conditions (C Wards) and care (feeding of young bedridden persons in B Wards) of residents in Demir Kapija could be said to amount to inhuman or degrading treatment (cf. paragraphs 79 to 80 and 96).

### **3. Patient's living conditions**

#### **a. Skopje Psychiatric Hospital**

67. At the outset of the visit, the living conditions in the male acute ward were scarcely satisfactory. The five bedrooms were equipped with 6 beds (in 28 m<sup>2</sup>) to 10 beds (in 38 m<sup>2</sup>) and appropriate bedding; however, most of them were not equipped with tables, chairs or bedside lockers. Further, the conditions in the other areas (living room/dining room, corridor) were very austere and the delegation noted that some windowpanes were broken or missing. Nevertheless, natural and artificial light as well as ventilation (through big windows without curtains and partly provided with outside bars) were adequate.

The sanitary facilities were dilapidated and left much to be desired. The four floor toilets, without flushing water, offered little to no privacy and were in an unhygienic state. Two of the three water taps were not working and the bathroom, where the patients were allowed a shower once a week, was not well maintained.

The situation in the ward dramatically deteriorated on the last two days of the visit when, despite numerous efforts by the Director, no heating was provided in the hospital. Heating was normally switched on, twice a day, for a few hours; however, the hospital ran out of oil and the temperature in the ward was low (15°C at 4 pm). In addition, the nurse on duty confirmed that, during the night, the temperature in the rooms would fall below 10°C. This state of affairs is totally unsatisfactory, all the more so given that many of the patients were dressed in pyjamas and some were barefoot.

68. The living conditions in the female acute ward were similar, if slightly better. The five bedrooms were equipped with 8 (in 39 m<sup>2</sup>) to 10 beds (70 m<sup>2</sup>) and appropriate bedding. In contrast to the men's situation, certain of the bedrooms were equipped with a table, chairs and a few cupboards, and had some decoration.

The sanitary facilities comprised one dilapidated bathroom with a shower and a bathtub (the latter could be used when the patient was calm). The ward was also equipped with a dining room and a living room with a TV set, tables, benches and a sofa.

Similarly to the male patients, many of the female patients were dressed in pyjamas and bathrobes, although some in better mental condition were dressed in their own clothes. The temperature in the bedrooms and the corridor was low (13°C at 5 pm) during the last two days of the visit. Though dilapidated, the ward was clean.

69. Each of the acute wards was also equipped with an "observation" room, mainly used to accommodate newly admitted patients or patients who needed special attention. They were also used as "isolation" rooms or to place patients subject to restraint measures (see paragraph 109). Conditions in these rooms were quite cramped.

70. To summarise, the living conditions in the male and female acute wards at Skopje Psychiatric Hospital were not satisfactory, and they would have been even worse if the wards had been operating at full capacity. Given the precarious situation prevailing in the acute wards at the end of the visit, and more particularly the absence of heating which, if prolonged, would inevitably have been life threatening to the patients, (as well as the initial adverse effects of oil shortage observed on the functioning of the kitchen and the laundry), the delegation invoked Article 8 (5) of the Convention and requested the national authorities to immediately provide the hospital with the financial resources required for meeting the patients' basic necessities of life and to inform the Committee within one month of the action taken.

In their response dated 27 December 2002, the authorities informed the Committee that approval had been given for financial resources to purchase 55 tons of heating oil for December 2002 and that the delivery had begun on 27 November 2002 (the very same day of the final talks). The CPT welcomes the swift response given to its immediate observation.

71. **The CPT recommends that measures be taken to ensure the necessary renovation work at the hospital, in particular: repair of the roofs of the various wards and the occupational activities rooms, replacement of broken window panes, repair of the sanitary facilities, installation of basic furniture such as tables, chairs and bedside lockers in all bedrooms. Efforts should also be made to decorate the male acute ward. The CPT would like to receive detailed information on the renovation plan drawn up in response to its recommendation (budget, schedule, etc.).**

72. It should also be noted that the practice observed at the hospital of continuously dressing patients in pyjamas/nightgowns is not conducive to strengthening personal identity and self-esteem; individualisation of clothing should form part of the therapeutic process. **The CPT recommends that measures be taken to ensure that patients are authorised to wear ordinary day clothes.**

73. The living conditions were remarkably better - cheerful and friendly - in the ward for substance abusers, where the patients could move freely inside and outside the ward or spend their time on a large terrace. They do not call for further comments, except as regards the two net-beds which were used in the ward's observation room (see paragraph 109).

74. More generally, the CPT welcomes the efforts already made by the management to reduce the number of beds at the hospital and to set up extra-hospital departments, efforts that are fully in line with the CPT's norms. **These efforts should be continued in favour of patients who do not need to be kept in a hospital setting and could benefit from community-based alternatives.**

b. Demir Kapija Special Institution

75. The living conditions at the Health Department, which accommodated in total 280 residents in 11 different wards, varied considerably. The best conditions were found in Wards A1 to A4 and the worst in Wards C1 and C2. It should be recalled that 40 % of the residents in the Health Department were semi-mobile or bedridden and that 81 residents were under 18 years of age (50 % of whom were bed-ridden). The management followed a differentiation policy when allocating the residents to their respective wards (age, mental disability and mobility criteria).

76. Living conditions in Wards A1 to A4 were on the whole satisfactory. The dining/social rooms where all the residents were gathered together during the day were provided with some tables, a few chairs and benches (and, in some cases, beds and mattresses on the floor that were used for semi-mobile residents). Access to natural light, artificial lighting and ventilation were adequate. However, **the bedrooms were overcrowded** (8 to 11 beds in 30 m<sup>2</sup>) and very little space was left for other pieces of furniture (such as bedside lockers or cupboards). Bedding was clean and sufficient and the sanitary facilities were in an acceptable state of maintenance/cleanliness. Further, the mobile residents could move freely inside and outside the building and some wheel chairs were available for the semi-mobile residents. Doors to the wards and dormitories were open, often also the entrance door to the building (though the institution's gate/reception was always monitored).

77. Conditions in Wards B1 to B5 were close to being acceptable (except for Ward B3), even if somewhat austere. Wards B1 and B2 were accommodating the bedridden residents in reasonably good conditions. This was also the case in Wards B4 and B5, which accommodated mobile residents. The dormitories in the different wards were spacious, clean and well lit and the dining/living rooms were equipped with some furniture (tables and benches).

However, no visual/sound stimulation was offered to young bedridden residents. In addition, nappies/incontinence pads were not provided and staff had to use pieces of old bed linen to take care of the incontinent residents. Further, no bedside lockers or cupboards were available to the mobile/semi-mobile residents. **The CPT recommends that appropriate measures be taken to remedy these shortcomings.**

78. Ward B3, used to confine 15 adolescent residents demonstrating repetitive auto and hetero-aggressive behaviour, was, on the contrary, a serious cause for concern. The amount of space available in the living/dining room (some 30 m<sup>2</sup>) was insufficient for the rather hyperactive residents; it exacerbated the already high level of tension and generated even more aggressiveness. This phenomenon culminated during food distribution. The level of cleanliness in the ward also left something to be desired.

**The CPT recommends that the conditions under which adolescent residents are accommodated in Ward B3 be reviewed, in the light of the above remarks.**

79. Living conditions in Wards C1 and C2 could only be termed execrable. Some of the residents were moving around half or totally naked, their sole activities consisting of hitting fellow residents and protecting themselves from blows. The living/dining rooms were austere and dirty, and the sanitary facilities totally unhygienic. The dormitories offered cramped conditions and the beds and bedding were soiled with urine and faeces. The most distressing moment was when food was brought in the wards: residents were grabbing food with their hands, trying to protect their meagre portion from other residents, and eating on the floor. During those times, one orderly (or at most two) attempted to maintain a semblance of order in the ward; however, the overall impression was that the distribution of food deprived the residents of any dignity.

To sum up, an atmosphere of utter neglect and abandonment prevailed in the C Wards; the living conditions in those wards could be said to amount to inhuman or degrading treatment. Consequently, the delegation invoked Article 8 (5) of the Convention and requested the authorities to immediately carry out a joint inspection, under the auspices of the Ministry of Labour and Social Policy and the Ministry of Health, and to inform the CPT within three months of the results of the inspection and of the measures taken in response.

80. In their response dated 27 December 2002, the national authorities indicated that contacts had been established between the two competent ministries to set up a mixed team of inspectors. The CPT trusts that the results of the joint inspection and the measures taken in response will be submitted to the Committee at the earliest opportunity (cf. in this regard paragraph 17 and footnote 5).

81. The delegation visited the "Depandans" only briefly; however, it gained the distinct impression of a relaxed and caring atmosphere. The residents were accommodated in several one-storey buildings, extending over a large rural area. The rooms were well equipped (including with individual bedside lockers and cupboards) and, for the most part, pleasantly decorated and personalised. Access to natural light and artificial lighting was adequate, as were the sanitary facilities. The best conditions were found in what was called a "family home", where the most autonomous residents were accommodated with a view to preparing them for an independent life outside the institution.

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

##### **a. Skopje Psychiatric Hospital**

82. Psychiatric treatment should be based on an individualised approach, which implies the drawing up of a treatment plan for each patient (which indicates the goals of the 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.

It should involve a wide range of rehabilitative and therapeutic activities, including access to occupational therapy, group therapy, individual psychotherapy, art, drama, music and sports. Patients should have regular access to suitably-equipped recreation rooms and have the possibility to take outdoor exercise on a daily basis; it is also desirable for them to be offered education and suitable work.

83. The average length of stay at Skopje Psychiatric Hospital was 90 days (40-50 days for the "acute" patients and 120 days for the "chronic" patients); however, certain patients had been admitted to the hospital as early as 1959. The patients' age ranged from 18 to 90.

The vast majority of the patients suffered from schizophrenia, but other mental pathologies such as manic-depressive disorders, schizo-affective disorders, depression, dementia, mental retardation, epilepsy, and alcoholism were also common. About 50% of the patients who were placed in the hospital or in the outpatient services were drug abusers.

84. As already indicated, the closed acute ward for men accommodated the most demanding, violent and/or dangerous patients (either coming from outside or from other hospital wards). The majority of the patients coming from outside were admitted with the assistance of the police, paramedics and/or their families. As soon as a patient was admitted, he was given an injection of sedative medication, and a medical examination took place after the patient had calmed down. The patient was examined by the psychiatrist on duty and a somatic examination was also performed. The main therapy offered to the patients consisted of psychopharmaca (all patients were on medication in acceptable doses) and some patients could also take part in support therapy, group therapy and occupational therapy. Usually, three to five patients could go to the occupational workshops, accompanied by a nurse or an orderly from the ward. A room was also available in the ward where some patients could do some handicraft or painting. However, no individual treatment plans were established.

85. The situation was somewhat similar in the women's closed acute ward. Patients were quite often brought to the ward with the assistance of the police or paramedics. Many were upset and violent on arrival and it could take some days to fully calm them down. Here again, the main treatment consisted of psychopharmaca. Very few patients (three to five) could take part in support therapy, group therapy or occupational therapy, the rest staying in a state of forced idleness.

86. A different situation prevailed in the ward for substance abusers. The patients were usually admitted with a doctor's referral, sometimes with the assistance of the police, as many were recidivists. On arrival, most of them were under the influence of alcohol<sup>18</sup> and suffered from moderate withdrawal symptoms; delirium tremens was rare. All patients participated in an extended socio-therapeutic program (therapeutic community model), which included group therapy with doctors, social workers, and psychologists twice a day, as well as receiving small doses of tranquillisers.

87. As indicated above, some patients were attending occupational therapy activities. Eleven occupational therapists were organising several workshops (musical activities, sewing, knitting, handicrafts, making icons, etc.) or fitness activities; however, the number of patients attending such activities was very limited (some 30 to 40, or 10% of the total number of patients in the hospital). In practice, the workshops were only accessible in the morning and there would not have been enough staff in the wards to escort patients to the workshops in the afternoon. In addition, the workshops were not in use at the moment of the visit, due to the absence of heating and the leaking roof.

88. The CPT all too often finds that the fundamental components of effective psycho-social rehabilitative treatment are underdeveloped or even totally lacking, and that the treatment provided to psychiatric patients consists essentially of pharmacotherapy. This situation is generally the result of the absence of suitably qualified staff and appropriate facilities or of lingering concepts of custody of patients. The two closed acute wards typified this scenario.

**The CPT recommends that increased efforts be made at Skopje Psychiatric Hospital to develop further the psycho-social-rehabilitative components of the treatment offered to patients in the two closed acute wards visited (this will undoubtedly require an increased presence of qualified staff; cf. paragraph 103).**

89. The delegation was informed that access to external somatic care services was rather difficult. In order to cope with this difficulty, the hospital employed a full-time internist and had set up its own ward for somatic patients. This ward (4 beds) was, however, only rudimentarily equipped and it was clear that it needed upgrading if its use were to be continued. Further, the quality of care in the somatic ward was inadequate. In the present circumstances, the Director expressed the wish to close the somatic ward and to sign an agreement with a general hospital. **The CPT would like to receive the comments of the Ministry of Health on this issue.**

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<sup>18</sup> Drug abusers were usually treated in the extra-hospital services. If a patient needed detoxification for his drug abuse, it would take place in a somatic hospital, after which he might be transferred to the psychiatric hospital.

90. Finally, the CPT would like to raise the issue of the use of electroconvulsive therapy (ECT) at the hospital. The delegation was informed that resort to ECT was very exceptional and last occurred in 1999. The patient concerned was a foreigner diagnosed with "catatonic schizophrenia" associated with a refusal to eat. After medication (Anafranil, Risperdol and Moditen) proved unsuccessful, the medical team decided to use ECT, and the consent of the patient's family was obtained. The treatment was given in the somatic ward, in the presence of a psychiatrist, an anaesthetist and an internist. The ECT treatment proved successful and the patient was released from the hospital, with appropriate medication.

The CPT would like to recall the principles set out in its 8<sup>th</sup> Annual General Report (cf. paragraph 39 of CPT/Inf (98) 12) concerning the use of ECT. **Given the remarks already made concerning the somatic ward (see above) and the outdated character of the ECT apparatus used, the CPT recommends that such treatment only be applied in a general hospital setting.**

b. Demir Kapija Special Institution

91. The CPT's delegation noted with interest the policy for differentiated allocation/grouping of residents introduced two years prior to the visit by the authorities at Demir Kapija (with the support of the British non-governmental organisation Voluntary Service Overseas). The main objective was to differentiate the residents by age, mental disability and mobility criteria, in order to offer them the stimulation, support, treatment and care required by their individual condition.

92. However, the delegation was concerned by the fact that, with some exceptions, no individualised care/treatment of any kind was offered to the residents in the Health Department. A resident's life was, to a great extent, characterised by monotony and passivity, the department lacking staff, facilities and programmes for recreation or constructive socio-therapeutic activities. This was most striking in the C Wards (cf. paragraph 79), where an atmosphere of utter neglect and abandonment was observed.

93. Only 21 children, mostly from the B-Wards, benefited from individualised care/treatment organised through a "UNICEF Project". Initiated in 2001 as part of the new de-institutionalisation policy launched by the Ministry of Labour and Social Policy, this project had been prolonged several times and was planned to continue for the whole of 2003.

The UNICEF Project activities took place in a one-storey building, comprising 5-6 group rooms, a day room, a kitchen and sanitary facilities, all of them well-equipped and pleasantly decorated. The toys, plants, and books in the rooms imparted a cheerful and welcoming impression; the atmosphere was palpably relaxed, and the relations between staff and the children caring and warm.

The daily schedule of the children participating in the UNICEF Project was organised as follows: after being collected from the Health Department at 7 am, the children had their breakfast, and were then engaged in a variety of activities until 6 pm. They were divided into 4 groups, each with its own defectologist<sup>19</sup> (assisted by certain other staff members, e.g. nurses, assistant defectologists or a social worker), and taught basic social skills (using utensils for eating, signalling when they needed to use the toilet) as well as different games and crafts. The purpose of the project was to train/rehabilitate the children with a view to releasing them from Demir Kapija and transferring them back to their families, foster homes or day care centres. Almost none of the children who had taken part in the project at the beginning were still in the institution, which is a remarkable success.

**The CPT recommends that the UNICEF Project be established on a permanent basis at Demir Kapija; as far as possible, the number of places in such programmes should be increased.**

94. A new programme (run by a recently-recruited defectologist) had just commenced, with 4 to 5 young residents participating each day in a special room in the B-Wing. In the A-Wards, a few residents (4 to 5 per day) were attending physiotherapeutic sessions and recreational activities in two small but well-equipped rooms in the basement of the building, in addition to the activities organised daily in the living/dayrooms.

Two large rooms situated on the upper floor of Building B had been equipped as multipurpose rooms (with the support of the Norwegian Government), but were not in use due to the lack of heating and qualified staff.

**The CPT recommends that efforts be made to increase the number of residents benefiting from stimulation, support, treatment, and care appropriate to their individual condition. Measures should also be taken to make better use of the facilities already available (through the organisation of activities in the afternoon and the use of the two multipurpose rooms).**

95. The CPT's delegation was particularly concerned by the situation encountered in Wards B1 and B2, accommodating the youngest of the bedridden residents, who suffered mostly from different kinds of genetic defects and pre- or post-natal brain damage. Many of those young residents were tiny, with atrophic muscles, and it was clear that the situation of a number of them had deteriorated since their arrival in the institution. The delegation's own observations confirmed that they did not benefit from any form of stimulation, either mental or physical, even during such important moments during the day as meal distribution. In the delegation's opinion, at least some of them could easily be stimulated if given attention and human contact.

**The CPT recommends that the orderlies working in the B Wards be reminded that their duty of care is not limited to feeding and changing the residents three times a day, but also requires attention, stimulation and individual care of the residents. This reminder should be closely linked to a training programme, specifically designed for the orderlies working in the institution, explaining in detail their duty of care (cf. paragraph 103).**

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<sup>19</sup> Defectology is an approach to the study and treatment of persons with disabilities. It draws on knowledge from medicine, pedagogy and psychology.

96. The feeding of young bedridden residents in the B Wards, who were on a "mashed food" diet, is a matter of serious concern to the CPT. Food was rapidly shovelled down their throats with a spoon, as they lay flat on their beds. The rule which appeared to govern the process was to feed as many residents as possible and as rapidly as possible. A similar approach was followed as regards adolescent residents in B3, all of whom were fed in a few minutes, while standing.

The process described above deprives residents of their dignity and, in the view of the CPT, amounts to degrading treatment. **The CPT recommends that distribution of food for young bedridden residents in the B Wards be reviewed. Residents should be fed in a manner respecting human dignity, including by being raised from a recumbent position and in a manner which permits them to eat at a normal pace. A similar review should be carried out in Ward B3 where, in the delegation's opinion, most - if not all - of the adolescent residents were capable of sitting at a table and eating properly.**

97. The situation was conspicuously better in "Depandans", where the most autonomous among the residents of the institution were accommodated. On arrival, they were sent to an observation group, where they were assessed by a defectologist and subsequently placed in a group where the primary goals were education and re-socialisation. Each group was composed of 10-12 residents, all of whom had individualised working plans, **though they did not benefit from a designated key-worker**. Several workshops were organised, such as sewing, embroidery, tapestry, different handicraft, gardening, and an activity group for those over 60 years old and a geriatric group. Some residents were employed outside the institution or were attending outside activities organised with the support of the Spanish Red Cross. Such an excursion, involving some sixteen residents, left the institution for a couple of days during the visit.

98. At the time of the visit, medical care was provided by a general practitioner from the local Health Care Centre<sup>20</sup>, who visited the institution every working day for 1 ½ hours (and was on call the rest of the time), and by a team of 13 full-time nurses (of whom two were working at "Depandans" and one in the laboratory).

The delegation was informed that the medical team was supplemented by certain specialists, who were hired on a consultative basis: a neuropsychiatrist (3 hours every other week); a physical therapist and a dentist (every other week); and a radiologist and a TB specialist (once a month). In addition, visits could be organised to a gynaecologist and a paediatrician. However, the CPT is concerned that no services from a paediatrician were organised in the institution (which accommodated some 80 vulnerable children). It should also be noted that the dentist's chair located in the medical facilities was dysfunctional.

**The CPT recommends that regular visits by a paediatrician to the institution be organised and that measures be taken to ensure that residents benefit from appropriate dental care.**

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<sup>20</sup> The full time post of medical doctor attached to the institution was vacant at the time of the visit. The delegation was subsequently informed that this post had been filled by the former Director, himself a general practitioner, and that a new Director had been recruited for the institution.

99. The CPT welcomes the fact that the mortality rate in the institution had been gradually reduced from 9.6% in 1996 to 4.2% in 2001. However, in many respects, the medical care of the residents still left something to be desired. The residents' medical files contained only very scanty information, and revealed that there were no regular medical examinations of the residents' mental and physical conditions. Further, the examination of some specific cases and the consultation of the nursing registers clearly indicated that the level of care could be improved. One of the most striking examples related to two young bedridden children in Ward B2, who were not weighed regularly even though they suffered from very severe nutrition deficiencies<sup>21</sup>.

**The CPT recommends that an in-depth medical review be made of all residents at the Health Department, with a view to ensuring that they all effectively benefit from an adequate level of medical and nursing care, and that the relevant information be recorded in their medical files. These medical files should contain diagnostic information (including the results of any special examinations which a patient has undergone), as well as an ongoing record of patients' mental and somatic state of health and of their treatment.**

In this connection, **the very presence of certain residents in the C Wards - who displayed psychiatric symptoms and no evident signs of mental disability (cf. paragraph 101) - should be reviewed.**

100. The CPT is also concerned by the arrangements concerning bedding and clothing (many of the residents in the B and C Wards were incontinent and pads or nappies were not available). Certain residents were collecting dirty bedding and clothes, placing those items temporarily in the corridor and then taking them to the laundry, where they would be dropped to the floor, next to the clean washing. The residents and the staff concerned did not use any gloves or other means of protection. Further, under those arrangements, it was extremely difficult for residents to keep and wear their own clothes, a situation which is not conducive to strengthening their personal identity and self-esteem.

**The CPT recommends that immediate measures be taken to ensure the respect of basic rules of hygiene in the institution, which should be regularly controlled by the medical doctor/nursing team. Further, residents should, as far as possible, wear their own clothes; individualisation of clothing forms part of the therapeutic process.**

101. Finally, the CPT is concerned by information received according to which Wards C1 and C2 were also used to accommodate troublesome residents, in particular those who escaped (or tried to escape) from the institution or those who showed signs of hyperactivity. The delegation identified during its visit at least four residents who responded to these criteria.

**It is axiomatic that the placement of a resident in a specific ward in the institution should match the criteria established when the differentiation policy was established (cf. paragraph 91), and should not be used as a disguised form of punishment.**

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<sup>21</sup> For example, a young resident suffering from "Asthenia Corporis Vomitus" had only been weighed twice since his arrival in the institution, the first time on 13 September 1999 (25 kg), the second time on 19 June 2002 (22 kg), and the third time - at the specific request of the delegation - on 19 November 2002 (15 kg).

## 5. Staff issues

### a. Skopje Psychiatric Hospital

102. Medical staff in the male acute ward consisted of two full-time psychiatrists and one junior doctor under training. In addition to their regular attendance scheme, they were on duty for the whole hospital 3 to 4 times a month (24 hour shifts). The medical team was supplemented by a full-time psychologist and a full-time social worker. The remaining staff comprised 6 male nurses and 2 female nurses, in addition to 6 orderlies. The medical team was present every working day in the morning, together with 3 nurses and 3 orderlies. One male nurse and one orderly were on duty from 2 pm until the following morning.

In the female acute ward, the situation was nearly identical: 2 full-time psychiatrists, a full-time psychologist and a social worker were on the day shift, together with 2 nurses and 2 orderlies, while the afternoon and night shifts were covered by a nurse and an orderly.

103. In the CPT's opinion, the psychiatric/psychological complement in the acute wards was at the limit of what could be considered acceptable, given the difficulties encountered with most of the patients, who were admitted against their will in an acute phase of their illness. However, the dramatically low levels of qualified nursing staff (particularly during the afternoon and the night shifts) and the lack of genuine training of the orderlies were the most worrying factors identified by the CPT's delegation. Such staffing levels tend to generate highly stressful work conditions and increase the risk of inter-patient violence and disproportionate reactions of staff towards very challenging patients (in this context, cf. paragraph 61). Further, low staffing levels had also had detrimental effects as concerns the surveillance of patients: for example, one patient fled a chronic ward (No. 4) unnoticed and was found frozen to death ("*congelatio*") in December 2001 and another patient died from suffocation while eating ("*bolus smart suffocatio*"), in the male acute ward in February 2002.

In this context, the delegation noted with interest that, in order to avoid staff burnout, the hospital's management had implemented a job rotation (every 2 to 3 years) involving some 80 % of the staff. In addition, the management had requested 20 more qualified nurses<sup>22</sup> to complement the working shifts in 2003.

**The CPT recommends that the nurses' staffing levels be substantially increased in the acute wards at Skopje Psychiatric Hospital, in particular during the afternoon and night shifts. They should also benefit from specific training for their tasks, in particular as regards the management of patients considered to represent a security risk for other patients and staff.**

Further, **the orderlies should receive appropriate training before taking up their duties and they should always be closely supervised by - and subject to the authority of - qualified health care staff during the performance of their tasks.**

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<sup>22</sup> 37 nursing posts were vacant in the hospital at the time of the visit (out of a total of 180 nursing posts).

104. The delegation also noted with concern that no specific alarm system for staff was installed in the acute wards. Unsurprisingly, the nurses and the orderlies met in the acute wards during the visit clearly indicated that they felt unprotected in case of incident. More generally, the delegation was informed that only two nurses were present in the whole hospital during the afternoon and the night shifts and that in case of serious incident in a ward, the possibilities for support were limited.

**The CPT invites the authorities to consider the installation of an alarm system (for example, panic beepers or buttons) for staff working in the acute wards. Further, management should establish specific procedures for dealing with serious incidents, with a view to enabling a sufficient number of staff to intervene in the ward concerned without undue delay.**

b. Demir Kapija Special Institution

105. Demir Kapija Special Institution employed a total of 139 staff<sup>23</sup>. At the Health Department, the number of staff in direct contact with the residents was very limited. It mainly consisted of orderlies (without any form of training or qualification); 10 qualified nurses (including the Head Nurse), 5 defectologists (4 of whom worked for the UNICEF Project), 3 physiotherapists (2 of whom had been contracted by a humanitarian organisation) and a social worker. The staff worked in three shifts: 6.30 am - 1 pm, 1 - 6.30 pm, 6.30 pm - 6.30 am. The day-shift comprised 5 nurses (including the Head Nurse) and 13 orderlies; the afternoon shift, 2 nurses and 13 orderlies; and the night shift, 2 nurses and 11 orderlies. This meant that, in practice, one orderly was present in each ward in the A Wing during the day, and one orderly was covering two wards during the night. In the B Wards, two orderlies were on duty during day time and one during night time. The same rule was applicable to the C Wards.

To sum up, the Health Department did not benefit from the necessary staff resources to provide appropriate care and stimulation to residents with mental disabilities and/or psychomotor deficiencies. In addition, the remote location of the institution, as well as the low remuneration of staff, made employment at the institution an unattractive option.

The delegation's opinion was fully shared by the Director and the Head Nurse, who indicated how difficult it was to introduce new policies with unqualified staff. Further, they both referred to the orderlies as "slaves to old habits inherited from the past" and clearly stated that the introduction of new policies in the institution would necessarily imply recruiting newly trained staff members. The Head Nurse also complained that she did not have direct control over the orderlies (it would appear that they were under the sole responsibility of the Director).

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<sup>23</sup> 15 other staff members were on temporary contracts; they were mainly involved in external activities such as farming, which was used as an educational and occupational activity for residents, in addition to supplying fresh food to the institution.

106. **The CPT recommends that staffing levels of defectologists, physiotherapists, nurses and orderlies be substantially increased in the Health Department at Demir Kapija Special Institution. Particular attention should also be given to the reinforcement of staff working during the afternoon and night shifts.**

Further, **the orderlies should receive appropriate training before taking up their duties and they should always be closely supervised by - and subject to the authority of - qualified health care staff during the performance of their tasks.**

107. The situation was far more favourable at "Depandans", to which 29 staff members were attached: 4 defectologists (including the Head of "Depandans"), 6 educators, 4 instructors, 2 qualified nurses, 5 orderlies, and some technical staff.

## **6. Means of restraint**

108. In any psychiatric establishment, the restraint of agitated and/or violent patients may on occasion be necessary. This is an area of particular concern to the CPT, given the potential for abuse and ill-treatment.

109. At Skopje Psychiatric Hospital, the delegation was informed that means of restraint were primarily used in the two acute wards and, occasionally, in the ward for substance abusers.

In the acute wards, the only means of physical restraint used were leather belts. Staff indicated that, when confronted with an agitated and/or violent patient, physical and manual control techniques were first applied, but if these proved unsuccessful, patients were fixated and then sedated in the ward's observation room,<sup>24</sup> where they were supervised through a connecting window from the nurse's office. The doctor on duty usually decided on the sedation and fixation of patients; in emergencies, nurses immediately informed a doctor of any application of those means, with a view to seeking his/her approval. The delegation was informed that fixation was normally applied during a relatively short period ("until the patient calms down"); however, this assertion was difficult to verify, as fixation incidents were not recorded in detail in the medical or nursing files/registers.

In the ward for substance abusers, medical staff indicated that fixation was considered to be contra-indicated for the management of agitation/violent episodes related to acute alcoholic intoxication and, instead of leather belts, staff used two net-beds. The beds concerned were covered with a sort of fishing net (with 10x12 cm holes), attached to a tubular system (1.3 m in height, covering the whole surface of the bed). The delegation was told that resort to the net beds was exceptional, and occurred only on a doctor's decision; however, as in the acute wards, there were no detailed records.

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<sup>24</sup> Given that there was no isolation room or single bedroom in the wards, fixation usually took place in the presence of other patients (or even visitors).

110. At Demir Kapija Special Institution, the Director indicated that one of the first measures he had taken on his appointment in 1999 was to reduce resort to physical restraint measures. Nonetheless, the delegation observed several instances of their use, in particular vis-à-vis two young adolescents in Ward B3. Orderlies in C Wards also indicated that they had recourse to something very similar to a straightjacket,<sup>25</sup> when confronted with agitated and/or violent residents. Resort to these measures was never recorded.

111. The CPT would like to stress that the restraint of patients/residents should be the subject of a clearly-defined policy. Such a policy should make clear that initial attempts to restrain agitated or violent patients/residents should, as far as possible, be non-physical (e.g. verbal instruction) and that where physical restraint is necessary, it should in principle be limited to manual control. Staff in such establishments should also receive training in both non-physical and manual control techniques vis-à-vis agitated or violent patients/residents. The possession of such skills will enable staff to choose the most appropriate response when confronted by difficult situations, thereby significantly reducing the risk of injuries to patients/residents and staff.

Further, resort to instruments of physical restraint (straps, straightjackets, etc.) will only very rarely be justified and must always be either expressly ordered by a doctor or immediately brought to the attention of a doctor with a view to seeking his/her approval. If, exceptionally, recourse is had to instruments of physical restraint, they should be removed at the earliest opportunity; they should never be applied, or their application prolonged, as a punishment. The CPT would like to stress that the application of instruments of physical restraint for a period of days cannot have any therapeutic justification and amounts, in its view, to ill-treatment.

Every instance of the physical restraint of a patient (manual control, use of instruments of physical restraint) should be recorded in a specific register established for this purpose (as well as in the patient's file). The entry should include the times at which the measure began and ended, the circumstances of the case, the reasons for resorting to the measure, the name of the doctor who ordered or approved it, and an account of any injuries sustained by patients or staff. This will greatly facilitate both the management of such incidents and the oversight of the extent of their occurrence.

**112. The CPT recommends that a clearly defined policy on the use of means of restraint be immediately drawn up and implemented in the two establishments visited, as well as in any other such establishment in "the former Yugoslav Republic of Macedonia", taking the criteria set out in paragraph 111 into account.**

**Further, the CPT invites the authorities to consider using single accommodation when applying means of restraint to patients/residents, in order to avoid this being done in the presence of other patients/residents and visitors (though this should not be to the prejudice of the close supervision required by such patients/residents).**

113. The CPT is of the opinion that net-beds are not an appropriate means of dealing with patients/residents in a state of agitation. **It recommends that they cease to be used as a tool for managing such patients in the ward for substance abusers at Skopje Psychiatric Hospital as soon as possible.**

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<sup>25</sup> The resident's movements were limited through the use of an inverted shirt or jacket.

## 7. Safeguards

114. On account of their vulnerability, the mentally ill and mentally disabled warrant much attention in order to prevent any form of conduct - or avoid any omission - contrary to their well-being. It follows that involuntary placement in a psychiatric establishment/special institution should always be surrounded by appropriate safeguards.

### a. Skopje Psychiatric Hospital

115. As already indicated (cf. paragraphs 84 to 85), almost all patients admitted in the acute wards were brought to the hospital by police officers and/or paramedics, sometimes accompanied by family members. Subsequent interviews with some recently admitted patients confirmed that hospitalisation had taken place against their will and that they wanted to leave the hospital.

The Director informed the delegation that involuntary placement was regulated by two laws, the Health Care Law of 1991<sup>26</sup> and the Law on non-process [Litigation] Procedure of 1979,<sup>27</sup> but that the relevant procedures were not applied in practice. The main reason cited by the Director was the total lack of response from the courts - which are the cornerstone of the involuntary placement procedure - when the 48-hour compulsory information procedure was followed. To sum up, at the time of the visit, patients were admitted and kept in the hospital on the sole authority of the hospital's psychiatrists, without regard to the formal legal safeguards.

**The CPT recommends that immediate measures be taken to ensure the full implementation of the above-mentioned legislation and, in particular, that the control by the judicial authorities of involuntary placement measures taken vis-à-vis psychiatric patients is effective. Meeting this requirement will involve inter alia reviewing the case of each patient held in closed acute wards throughout the country.**

116. The delegation was also informed that draft legislation for mental health had been in preparation for two years, but that this process had been temporarily stopped. This draft legislation was part of a more ambitious project, aiming at reforming the mental health sector, under the initiative of the World Health Organisation (Humanitarian Assistance Office) and the Ministry of Health.

The draft legislation sets out a certain number of rules pertaining to involuntary placement in a psychiatric institution (sections 19-33) and discharge from such an institution (sections 38-42), which on the whole conform to the criteria set out in the CPT's 8<sup>th</sup> Annual Report (cf. paragraphs 51-57 of CPT/Inf (98) 12). However, on the basis of the observations made by the delegation during the visit, the safeguards provided by this draft legislation could usefully be supplemented on a certain number of issues, in particular as regards the safeguards offered during placement and the patients' free and informed consent to treatment.

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<sup>26</sup> Section 48 of the Health Care Law states, in particular, that "Persons with mental handicap, dangerous for their life and the life of other people or property, should be admitted for treatment in a corresponding health organisation" and that "The health organisation which has admitted the person [...] shall be liable to determine the necessity of hospital treatment, within 24 hours, as well as to inform the competent guardian".

<sup>27</sup> This Law provides for a detailed procedure to be followed for the involuntary placement of a patient in a health organisation for treatment of psychiatric illnesses. It provides, *inter alia*, that: the relevant court must be informed, within 48 hours, of any involuntary placement measure (section 59); the patient must be heard in court before any decision is taken, and the court is obliged to reach a decision within three days (section 65); the limitation of such involuntary placement measure to a maximum of one year (section 67); etc.

117. As regards safeguards during placement, the CPT would like to highlight that an introductory brochure setting out the establishment's routine and patients' rights should be issued to each patient on admission, as well as to their families. Any patients unable to understand this brochure should receive appropriate assistance.

Further, as in any place of deprivation of liberty, an effective complaints procedure should be set up. Specific arrangements should exist for patients to lodge formal complaints with a clearly-designated body, and to communicate on a confidential basis with an appropriate authority outside the establishment.

The maintenance of contact with the outside world is essential, not only for the prevention of ill-treatment but also from a therapeutic standpoint. Patients should be able to send and receive correspondence, to have access to the telephone, and to receive visits from their family and friends. Confidential access to a lawyer should be guaranteed.

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

Involuntary placement in a psychiatric establishment should cease as soon as it is no longer required by the patient's mental state. Consequently, the need for such a placement should be reviewed at regular intervals (e.g. every three months).

**The CPT recommends that the above remarks be fully taken into account when finalising the draft legislation on mental health.**

118. As indicated above, the patients' free and informed consent to treatment is one of the most important safeguards offered to any patient. Patients should, as a matter of principle, be placed in a position to give their free and informed consent to treatment. The admission of a person to a psychiatric establishment on an involuntary basis should not be construed as authorising treatment without his consent. It follows that every competent patient, whether voluntary or involuntary, should be given the opportunity to refuse treatment or any other medical intervention. Any derogation from this fundamental principle should be based upon law and only relate to clearly and strictly defined exceptional circumstances. Of course, consent to treatment can only be qualified as free and informed if it is based on full, accurate and comprehensible information about the patient's condition and the treatment proposed. Consequently, all patients should be provided systematically with relevant information about their condition and the proposed treatment. Relevant information (results, etc.) should also be provided following treatment.

**The CPT recommends that the foregoing remarks be fully taken into account when finalising the draft mental health legislation.**

b. Demir Kapija Special Institution

119. Admission and stay in Demir Kapija is governed by the Social Protection Law of 1997, and the relevant procedure is long and complex. Parents of a mentally disabled child first contact one of the 34 centres for social welfare established throughout the country (these centres act as mediators between the parents/patients and the social care institutions). Based on the documents available (various reports and examinations, medical certificates, etc.), a recommendation for institutionalisation or for an alternative solution is issued by a "Committee on categorisation". As regards Demir Kapija, a special committee examines the parents' request and a special approval is sought from the Ministry of Labour and Social Policy.

Discharge from the institution could take place mainly on application of the resident concerned or his/her legal guardian, or following changes in the resident's mental or physical condition. However, the delegation formed the impression that a certain number of residents were de facto deprived of their liberty for an indefinite period, and that, in fact, many residents would remain in the institution for the rest of their lives.

120. Ex officio placement by the public authorities<sup>28</sup> in special centres/institutions should always be surrounded by appropriate safeguards. In particular, the procedure by which ex officio placement is decided should offer guarantees of independence and impartiality as well as being based on objective medical, psycho-social and educational expertise. It is also crucial that the need for placement be regularly reviewed and that this review afford the same guarantees as those surrounding the placement procedure.

**The CPT would like to receive more detailed information on any such safeguards offered by the existing legislation to mentally disabled residents at Demir Kapija Special Institution (or any other similar institution in the country).**

## 8. Final remarks

121. Despite the serious lacunae identified in the above description of the two establishments visited, a certain number of positive features found during the visit indicate that the authorities of "the former Yugoslav Republic of Macedonia" are firmly committed to reforming and restructuring the sectors of psychiatric and social care, with the support of the international community.

The Draft National Strategic Plan for Mental Health (2000-2012) - based on the key concepts of decentralising psychiatric care and creating community mental health centres - shows the direction to be taken for reform of this sector; **the draft plan should be finalised and implemented without delay.** In this regard, **the CPT recommends that a high priority be given to the discussion, enactment and entry into force of the Law on Mental Health, which will no doubt reinforce the protection of psychiatric patients against ill-treatment.**

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<sup>28</sup> Or placement decisions by public authorities following a formal request by a family member or guardian.

A similar process is underway in the social care sector, guided by the principles of decentralisation of social services and the de-institutionalisation of the persons concerned. **The CPT would like to highlight the crucial importance of inter-ministerial cooperation in this context, given that any reform of the social care sector will undoubtedly have ramifications in the health and education areas.**

**The CPT would like to receive any relevant information concerning developments in the sectors of mental health and social care,** and hopes that the recommendations and comments made in this report will prove useful in the setting of priorities.

### III. RECAPITULATION AND CONCLUSIONS

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

122. As was the case during previous visits to "the former Yugoslav Republic of Macedonia", the CPT's delegation gathered information from a variety of sources concerning ill-treatment allegedly inflicted on persons deprived of their liberty by security forces under the authority of the Ministry of the Interior, including regular police, criminal police, and personnel from the Directorate for Security and Counterintelligence (UBK) and the Unit for Rapid Intervention ("Lions"). In certain cases, the severity of the ill-treatment alleged was such that it could be considered to amount to torture. The delegation found evidence of recent ill-treatment of persons who had come into contact with the law enforcement agencies under a variety of circumstances, in different parts of the country.

The panoply of methods of ill-treatment alleged was much the same as that encountered during previous CPT visits. The delegation received numerous allegations of beatings, some of them severe or sustained enough to induce loss of consciousness and/or lasting sequelae. Apart from allegations of punches and kicks on various parts of the body, there were many allegations of beatings with batons, metal rods, firearm butts, wooden sticks, shovel handles and baseball bats, which involved - in certain cases - the infliction of repeated blows on the gluteal region and/or the soles of the feet. Some persons also alleged that they had been threatened with loaded, cocked firearms pointed at and pressed against their temples.

In a significant number of cases, the delegation gathered medical evidence which was consistent with the accounts of ill-treatment received. Further, the delegation once again found in police stations unlabelled objects corresponding to the descriptions given by the persons concerned of the implements allegedly used to ill-treat them.

It should be added that after the November 2002 visit, the CPT has continued to receive reports of ill-treatment by law enforcement officials.

123. On the basis of all the information obtained by the CPT before, during and after the November 2002 periodic visit, the Committee can only conclude that the physical ill-treatment of persons deprived of their liberty by law enforcement agencies in "the former Yugoslav Republic of Macedonia" continues to be a serious problem, nearly five years after the first periodic visit when similar conclusions were reached.

124. The inaction of judges, public prosecutors and investigating police officers has fostered a climate in which law enforcement officials minded to ill-treat persons have come to believe - with very good reason - that they can do so with impunity. The information gathered during the November 2002 visit only served to confirm once again that, where cases of alleged ill-treatment by law enforcement officials are concerned, judges and prosecutors are not meeting their obligations to ensure that those allegations are properly investigated and pursued.

The CPT has made several detailed recommendations aimed at combating impunity. In particular, the Committee has called upon the national authorities to ensure: that prosecutors issue a formal proposal to take action to an investigating judge in every case where they become aware - in any way - that a person may have sustained injuries while in the custody of law enforcement officials; that investigating judges take the necessary steps (by recording allegations, ordering immediately a forensic medical examination, etc.) whenever criminal suspects brought before them at the end of police custody allege ill-treatment or whenever there are other grounds to believe that the persons concerned could have been the victims of ill-treatment. Measures to improve the manner in which complaints against the police are investigated by the Ministry of Interior Unit for Professional Standards (EPS) have also been recommended.

125. From the facts found during the November 2002 visit, it is clear that the practical application of safeguards against ill-treatment is still far from satisfactory in "the former Yugoslav Republic of Macedonia". The CPT is particularly concerned by the continuing lack of compliance with the formal legal and/or regulatory provisions regarding police detention limits, notification of custody, access to a lawyer, access to a doctor, and recording of various aspects of police custody. The CPT has called upon the national authorities to review the recommendations on those issues made in the Committee's previous reports and to ensure that they are systematically followed by all categories of officials under the authority of the Ministry of the Interior.

126. A new phase has now begun, following a particularly difficult period marked by the 2001 crisis and its aftermath. This moment presents an opportunity for the national authorities to demonstrate that it is possible to make resolute strides towards establishing the rule of law. This goal will not be reached without a renewed impetus in the struggle against the persistent and seemingly intractable problems of ill-treatment and impunity. In this connection, the CPT has welcomed the conclusions reached by the Government of "the former Yugoslav Republic of Macedonia" on 10 February 2003, in which the Government expressed its determination to act on the Committee's recommendations.

As a signal of the will to change the status quo, the above-mentioned recommendations of the CPT on combating impunity and on safeguards against ill-treatment should be implemented without delay.

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

127. The delegation gathered no evidence of ill-treatment of inmates by staff in the *prison establishments* visited. Nevertheless, in the light of allegations received, the CPT has recommended that measures be taken to impress upon staff in Skopje Prison that handcuffing a person in an uncomfortable position (regardless of the length of time) is a totally unacceptable means of restraint. More generally, custodial staff throughout the prison system should be reminded that no more force than is strictly necessary is to be used to control violent and/or recalcitrant prisoners.

Information gathered at the *Educational-Correctional Institution* has led the CPT to recommend that the establishment's custodial staff be given the clear message that inmates who misbehave must be dealt with only in accordance with the prescribed disciplinary procedures.

128. The climate in a prison is greatly dependent on a professional team of staff, who must be present in adequate numbers at any given time in detention areas and in facilities used by prisoners for activities. An overall low staff complement which diminishes the possibilities of direct contact with prisoners will certainly impede the development of positive staff-inmate relations; more generally, it will create an insecure climate for both staff and prisoners.

The delegation found that inadequate staffing levels constitute a major problem throughout the prison system, the situation at Skopje Prison being particularly dramatic. A number of prison officers in different establishments indicated that they frequently felt that their own security was compromised. The CPT has recommended that the national authorities conduct a review, without delay, of current staffing arrangements throughout the prison system, with the objective of ensuring that the number of prison officers employed is sufficient to ensure staff safety and the physical and mental integrity of inmates. In this regard, the recently-announced initiatives of the Prison Service to substantially reinforce staffing resources and improve training for newly-recruited prison officers deserve full support.

129. Serious shortcomings in terms of material conditions of detention - due to an inadequate infrastructure (e.g., the size of the cells in the remand block at Bitola Prison or the absence of natural light in the remand block at Ohrid Prison) or to a deterioration of the premises (often exacerbated by overcrowding) - were present in varying degrees in the establishments visited. That said, recently refurbished accommodation at Skopje Prison could offer satisfactory conditions of detention if used at its intended occupancy level.

The CPT has recommended that serious efforts be made to reduce occupancy levels in remand prisons, with the initial aim of providing a minimum of 4 m<sup>2</sup> of cell space per person. More generally, all necessary steps should be taken - and all available channels explored - with a view to improving material conditions in prison establishments, having regard to the Committee's remarks.

130. A fundamental problem as regards remand prisoners was the total absence of a programme of activities. At the time of the visit, they were being held for up to 23 ½ hours a day in their cells. More specifically, with the exception of Ohrid Prison, remand prisoners in the establishments visited did not enjoy the legal allowance of two hours of outdoor exercise.

The organisation of regime activities in remand prisons is not a straightforward matter, in view of the fairly rapid turnover of inmates. However, the current policy of "warehousing" remand prisoners is unacceptable. The CPT has recommended that the national authorities take steps as a matter of urgency to improve radically the regime activities for remand prisoners. The aim should be to ensure that they are able to spend a reasonable part of their day outside their cells, engaged in purposeful activities of a varied nature (group association activities; work, preferably with vocational value; sport). Measures must be taken immediately to ensure that all remand prisoners are offered at least one hour of outdoor exercise every day.

131. The establishments visited were found to be grossly under-resourced in terms of health care staff. Most of the prisons visited had no health care personnel whatsoever and were relying on outside hospitals. The CPT has recommended that immediate steps be taken to increase (or introduce) health care staff in the establishments visited, paying particular attention to the recruitment of qualified nurses as well as the provision of psychiatric care.

The Committee has also stressed that all newly-arrived prisoners should have a proper medical examination within 24 hours of admission.

132. Other recommendations and comments made by the CPT concern contacts with the outside world and juveniles. Particular reference should be made to the recommendation that every effort be made, as a matter of urgency, to relocate the minors of the Educational-Correctional Institution (presently held at Skopje Prison) to an appropriate centre specifically designed for persons of this age.

**C. Establishments under the authority of the Ministry of Health and of the Ministry of Labour and Social Policy**

133. Relations between patients and staff at *Skopje Psychiatric Hospital* appeared to be quite relaxed; with one exception, the delegation did not receive any allegations of ill-treatment of patients by staff of the establishment.

In contrast, a high level of tension was palpable in Wards C1 and C2 at *Demir Kapija Special Institution*, where orderlies openly admitted that they were hitting residents back when confronted with aggressive behaviour. The delegation also observed numerous episodes of violent and aggressive behaviour between residents in those wards; on many occasions, this met with no response from staff. Further, several residents repeatedly exhibited auto-aggression resulting in long-lasting injuries.

The CPT has recommended that measures be taken at managerial level in the two establishments to ensure that staff be reminded, by appropriate means and at regular intervals, that the ill-treatment of patients or residents is not acceptable and will be the subject of severe sanctions. Particular attention should also be given to the selection, training and supervision of auxiliary staff. Further, in the interests of preventing inter-patient violence, the Committee has recommended that the authorities review urgently, in both establishments, the level of staffing in each ward during the afternoon and night shifts, with a view to reinforcing the presence of qualified staff.

134. The living conditions in the male and female acute wards at *Skopje Psychiatric Hospital* were not satisfactory, and they would have been even worse if the wards had been operating at full capacity. Recommendations aimed at remedying the shortcomings observed have been made. The CPT has welcomed the swift action taken by the authorities to address the severe oil shortage problem which arose at the end of the delegation's visit to the hospital.

Living conditions in the Health Department at *Demir Kapija Special Institution* varied considerably. They were, on the whole, acceptable in the A and B Wards. However, an atmosphere of utter neglect and abandonment prevailed in the C Wards; the living conditions in them could be said to amount to inhuman or degrading treatment. At the delegation's request, a joint inspection team, under the auspices of the Ministry of Labour and Social Policy and the Ministry of Health, was established to examine the situation in these wards.

135. The CPT has made a number of recommendations and comments concerning treatment and care, with a view to further developing the psycho-social rehabilitative components of the treatment offered to patients in the two closed acute wards at Skopje Psychiatric Hospital, and to increasing the number of residents in the Health Department at Demir Kapija Special Institution benefiting from stimulation, support, treatment and care appropriate to their individual condition.

The CPT has also recommended that the distribution of food for young bedridden residents in the B Wards at Demir Kapija be reviewed. The feeding process observed by the delegation deprived residents of their dignity and amounted, in the CPT's view, to degrading treatment.

136. As regards staffing issues, the CPT has drawn attention to the dramatically low levels of qualified nursing staff at *Skopje Psychiatric Hospital* (particularly during the afternoon and night shifts). Such staffing levels tend to generate highly stressful work conditions and increase the risk of inter-patient violence and disproportionate reactions of staff towards very challenging patients. The lack of genuine training of the orderlies has also been highlighted.

A reinforcement of staffing levels at *Demir Kapija Special Institution* has also been recommended. At present, the establishment's Health Department does not possess the necessary staff resources to provide appropriate care and stimulation to residents with mental disabilities and/or psychomotor deficiencies.

137. Despite the shortcomings identified, the information gathered during the visit indicates that the authorities of "the former Yugoslav Republic of Macedonia" are firmly committed to reforming and restructuring the sectors of psychiatric and social care.

In this regard, the CPT has emphasised the importance of finalising and implementing without delay the Draft National Strategic Plan for Mental Health. More specifically, the Committee has recommended that a high priority be given to the discussion, enactment and entry into force of the new Law on Mental Health.

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

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

139. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the Committee requests the authorities of "the former Yugoslav Republic of Macedonia" to provide within **six months** a response giving a full account of action taken to implement them.

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

## APPENDIX I

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

#### **Co-operation between the CPT and the authorities of "the former Yugoslav Republic of Macedonia"**

##### requests for information

- plans for the realisation of the proposal for a seminar for judicial, prosecutorial and Ministry of the Interior officials concerning the powers of the CPT and the obligations of the authorities under the Convention (paragraph 12);
- confirmation that the full substance of the Government conclusions quoted in paragraph 14 has been transmitted to all relevant authorities (law enforcement officials, judicial and prosecuting authorities, etc.) (paragraph 14).

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

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

##### requests for information

- further information concerning the incident of 7 February 2003 allegedly involving the ill-treatment of two men by plainclothes police officers (criminal police inspectors) at the time of apprehension and whilst the men were detained at Kumanovo Police Station, and on the measures taken in response (paragraph 26).

##### **Combating impunity**

##### recommendations

- relevant prosecutors/investigating judges to be systematically informed in writing of any findings relating to possible cases of police ill-treatment discovered on a person's admission to the prison system (paragraph 29);
- serious consideration to be given to the introduction of a provision in the relevant legislation to authorise the imposition of disciplinary sanctions on judges who do not investigate allegations or signs of ill-treatment of persons deprived of their liberty (paragraph 29);

- the authorities of "the former Yugoslav Republic of Macedonia" to ensure that the following precepts are applied in practice:
  - prosecutors must, in every case where they become aware - in any way - that a person may have sustained injuries while in the custody of law enforcement officials, issue a formal proposal to take action (*predlog za prevzemanje na oddelni istražni dejstviya*) to an investigating judge in order to establish the facts of the case. Formal instructions to this effect should be addressed by the Prosecutor-General to all public prosecutors;
  - whenever criminal suspects brought before an investigating judge at the end of police custody allege ill-treatment by the police, the judge should record the allegations in writing, order immediately a forensic medical examination and take the necessary steps to ensure that the allegations are properly investigated. Such an approach should be followed whether or not the person concerned bears visible external injuries. Further, even in the absence of an express allegation of ill-treatment, the judge should order a forensic medical examination whenever there are other grounds to believe that a person brought before him could have been the victim of ill-treatment.  
(paragraph 30);
- appropriate measures to be taken to introduce improved working practices within the Ministry of the Interior Unit for Professional Standards (EPS), and to ensure that its functions are widely publicised. Apart from the possibility for persons to lodge complaints against the police directly with the EPS, it should be mandatory for the police to register all representations which could constitute a complaint; to this end, appropriate forms should be introduced for acknowledging receipt of a complaint and confirming that the matter will be pursued (paragraph 32);
- appropriate steps to be taken to ensure that persons who may have been the victims of ill-treatment by law enforcement officials are not dissuaded from lodging a formal complaint (paragraph 32);
- the EPS to be required to notify - without delay - the competent prosecution and/or judicial authorities of every case in which the conduct of police officers may be criminal in nature; the decision as to whether or not the conduct of the officers concerned is criminal in nature should be made by the competent prosecution and/or judicial authorities and not by a serving police officer (paragraph 33).

requests for information

- a copy of the text being proposed in the context of the new project for developing the regulatory framework for the EPS (paragraph 31).

## **Issues relating to the Directorate of Security and Counterintelligence (UBK)**

### recommendations

- if there are currently no legal or regulatory provisions governing detention-related activities by the UBK, appropriate legislation and regulations to be enacted at the earliest opportunity and complied with strictly in practice (paragraph 34).

### requests for information

- further developments in terms of transferring the functions of the UBK to the Bureau for Public Security and whether the Instruction for the UBK issued in August 1998 remains in force (paragraph 34);
- whether there exist legal or regulatory provisions - or instructions issued by the Minister for the Interior - establishing a solid legal framework governing detention-related activities by the UBK and incorporating the same procedural safeguards for persons deprived of their liberty (first and foremost, notification of custody; access to a lawyer; access to a doctor; information on rights; proper custody registers) as those which formally apply to other branches of the Ministry of the Interior. If that is the case, the CPT would like to receive a copy of all such documents (paragraph 34);
- the 2000 annual report of the Parliamentary Commission supervising the UBK, as well as any subsequent reports prepared by that Commission (paragraph 34).

## **Special police units**

### requests for information

- the status of the process of disbanding the "Lions" Special Police Unit for Rapid Intervention; in particular, information on the precise manner in which the redeployment of the former "Lions" is being handled (paragraph 35);
- confirmation that all cases of alleged ill-treatment by former "Lions" are being properly investigated and pursued (paragraph 35).

## **Safeguards against ill-treatment**

### recommendations

- the authorities of "the former Yugoslav Republic of Macedonia" to review the specific recommendations on safeguards made in previous CPT reports (cf. paragraphs 28 to 46 of CPT/Inf (2001) 20, 47 to 55 of CPT/Inf (2003) 3, and 39 to 45 of CPT/Inf (2003) 5) and ensure that they are systematically followed by all categories of officials under the authority of the Ministry of the Interior (paragraph 36);
- decisive steps to be taken to ensure the responsible and diligent use of the new standardised custody registers (paragraph 36).

## **Material conditions**

### recommendations

- the relevant authorities to rapidly devise and vigorously pursue a properly-resourced strategy to improve conditions of detention in police establishments throughout "the former Yugoslav Republic of Macedonia"; regular independent inspections of police premises should form an integral part of that strategy (paragraph 37).

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

### **Ill-treatment**

#### recommendations

- measures to be taken to impress upon staff in Skopje Prison that handcuffing a person in an uncomfortable position (regardless of the length of time) is a totally unacceptable means of restraint; more generally, custodial staff throughout the prison system to be reminded that no more force than is strictly necessary should be used to control violent and/or recalcitrant prisoners. If appropriate, more detailed guidance on the use of means of restraint should be issued (paragraph 40);
- the management of the Educational-Correctional Institution to deliver the clear message to custodial staff that the ill-treatment of inmates is not acceptable under any circumstances and will be dealt with severely. Inmates who misbehave should be dealt with only in accordance with the prescribed disciplinary procedures (paragraph 41).

### **Staffing issues**

#### recommendations

- the relevant authorities to conduct a review, without delay, of current staffing arrangements throughout the prison system; the objective should be to ensure that the number of prison officers employed is sufficient to ensure staff safety and the physical and mental integrity of inmates (paragraph 43).

#### requests for information

- further information on the implementation of initiatives relating to reinforcement of staffing resources and improvements for training for newly-recruited prison officers (paragraph 43).

## **Material conditions**

### recommendations

- serious efforts to be made to reduce occupancy levels in remand prisons; the initial aim should be to provide a minimum of 4 m<sup>2</sup> of cell space per person. Where applicable, the partitioning of toilet facilities in multi-occupancy cells should be improved. More generally, the authorities should take all necessary steps - and explore all available channels - with a view to improving material conditions in prison establishments, having regard to the remarks in paragraphs 44 to 48 (paragraph 49).

## **Regime**

### recommendations

- steps to be taken as a matter of urgency to improve radically the regime activities for remand prisoners; the aim should be to ensure that remand prisoners are able to spend a reasonable part of the day outside their cells, engaged in purposeful activities of a varied nature (group association activities; work, preferably with vocational value; sport). The legislative framework governing remand imprisonment should be revised accordingly and staffing levels increased substantially (paragraph 50);
- the national authorities to ensure immediately that all remand prisoners are offered at least one hour of outdoor exercise every day. Outdoor exercise facilities should be sufficiently large to enable prisoners to exert themselves physically (paragraph 50);
- the recommendation concerning regime activities made in paragraph 50 to be read as applying equally to sentenced prisoners held in the closed unit of Skopje Prison (paragraph 51).

### comments

- as one of the steps towards alleviating the situation of remand prisoners, consideration could be given to the possibility of permitting them to keep television sets or radios in their cells (paragraph 50).

## **Medical care**

### recommendations

- immediate steps to be taken to increase (or introduce) health care staff in the establishments visited, paying particular attention to the recruitment of qualified nurses as well as the provision of psychiatric care. More generally, a high priority should be given to reviewing the situation as regards health care staffing throughout the prison system (paragraph 52);

- all newly-arrived prisoners to be subject to a proper medical examination within 24 hours of admission (paragraph 53);
- the record drawn up by prison doctors following a medical examination of a newly-arrived prisoner should contain:
  - (i) a full account of statements made by the person concerned which are relevant to the medical examination (including his description of his state of health and any allegations of ill-treatment);
  - (iii) a full account of objective medical findings based on a thorough examination;  
and
  - (iii) the doctor's conclusions in the light of (i) and (ii), indicating the degree of consistency between any allegations made and the objective medical findings.

The results of every examination, including the statements made by the person concerned and the doctor's conclusions, should be made available to the detained person and his lawyer. Further, the relevant prosecutors and investigating judges should be informed by the Prison Director, in writing, of any findings relating to possible cases of police ill-treatment discovered on a person's admission to the prison system (paragraph 53).

#### requests for information

- the outcome of the review of health care staffing throughout the prison system and the measures taken by the authorities in response (paragraph 52).

### **Contacts with the outside world**

#### recommendations

- the practice of supervising contacts between remand prisoners and their lawyers to be reviewed without delay (paragraph 54).

### **Issues relating to juveniles**

#### recommendations

- every effort to be made, as a matter of urgency, to relocate the minors from the building accommodating sentenced adults at Skopje Prison to an appropriate centre specifically designed for persons of this age (paragraph 55);
- the national authorities to strive to ensure that juvenile remand prisoners are held in detention centres specifically designed for persons of this age (paragraph 57);
- the necessary steps to be taken to ensure that juveniles placed in remand prisons are provided with a full programme of educational activities (including physical education) and are accommodated separately from adult prisoners (paragraph 57).

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

**Ill-treatment**

recommendations

- measures to be taken at managerial level at Skopje Psychiatric Hospital and Demir Kapija Special Institution in order to ensure that staff be reminded, by appropriate means and at regular intervals, that the ill-treatment of patients or residents is not acceptable and will be the subject of severe sanctions. Particular attention should also be given to the selection, training and supervision of auxiliary staff (paragraph 64);
- special protective measures to be taken vis-à-vis the severely agitated and auto-aggressive residents mentioned in paragraph 62 (paragraph 64);
- urgently review, at Skopje Psychiatric Hospital and Demir Kapija Special Institution, the level of staffing in each ward during the afternoon and night shifts, with a view to reinforcing the presence of qualified staff. Particular efforts should be made vis-à-vis the wards accommodating the most aggressive and the most vulnerable patients (paragraph 65);
- specific arrangements to be made at Demir Kapija Special Institution for particularly vulnerable residents; they should not be accommodated together with the most aggressive residents (as was the case in C1 and C2 Wards) (paragraph 65).

requests for information

- in respect of the mid-November 2002 case of alleged ill-treatment of a patient by an orderly at Skopje Psychiatric Hospital, the CPT requests that the results of the police and judicial investigations, as well as the report of the Internal Commission, be transmitted to the Committee in due course (paragraph 61).

**Patient's living conditions**

recommendations

- measures to be taken to ensure the necessary renovation work at Skopje Psychiatric Hospital, in particular: repair of the roofs of the various wards and the occupational activities rooms, replacement of broken window panes, repair of the sanitary facilities, installation of basic furniture such as tables, chairs and bedside lockers in all bedrooms. Efforts should also be made to decorate the male acute ward (paragraph 71);
- measures to be taken at Skopje Psychiatric Hospital to ensure that patients are authorised to wear ordinary day clothes (paragraph 72);

- appropriate measures to be taken to remedy the shortcomings observed in Wards B1, B2, B4 and B5 at Demir Kapija Special Institution (paragraph 77);
- the conditions under which adolescent residents are accommodated in Ward B3 to be reviewed, in the light of the remarks made in paragraph 78 (paragraph 78).

#### comments

- efforts to reduce the number of beds at Skopje Psychiatric Hospital and to set up extra-hospital departments should be continued in favour of patients who do not need to be kept in a hospital setting and could benefit from community-based alternatives (paragraph 74);
- the bedrooms in Wards A1 to A4 at Demir Kapija Special Institution were overcrowded (paragraph 76);

#### requests for information

- detailed information on the renovation plan drawn up for Skopje Psychiatric Hospital (budget, schedule, etc.) (paragraph 71).

### **Treatment and care**

#### recommendations

- increased efforts to be made at Skopje Psychiatric Hospital to develop further the psycho-social-rehabilitative components of the treatment offered to patients in the two closed acute wards (for men and for women ) (paragraph 88);
- given the remarks made concerning the somatic ward and the outdated character of the ECT apparatus used at Skopje Psychiatric Hospital, ECT only to be applied in a general hospital setting (paragraph 90);
- the UNICEF Project to be established on a permanent basis at Demir Kapija Special Institution; as far as possible, the number of places in such programmes should be increased (paragraph 93);
- efforts to be made to increase the number of residents at Demir Kapija Special Institution benefiting from stimulation, treatment, support and care appropriate to their individual condition. Measures should also be taken to make better use of the facilities already available (through the organisation of activities in the afternoon and the use of the two multipurpose rooms) (paragraph 94);

- the orderlies working in the B Wards at Demir Kapija Special Institution to be reminded that their duty of care is not limited to feeding and changing the residents three times a day, but also requires attention, stimulation and individual care of the residents. This reminder should be closely linked to a training programme, specifically designed for the orderlies working in the institution, explaining in detail their duty of care (paragraph 95);
- the distribution of food for young bedridden residents in the B Wards at Demir Kapija Special Institution to be reviewed. Residents should be fed in a manner respecting human dignity, including by being raised from a recumbent position and in a manner which permits them to eat at a normal pace. A similar review should be carried out in Ward B3 where, in the delegation's opinion, most - if not all - of the residents were capable of sitting at a table and eating properly (paragraph 96);
- regular visits by a paediatrician to Demir Kapija Special Institution to be organised and measures to be taken to ensure that residents benefit from appropriate dental care (paragraph 98);
- an in-depth medical review to be made of all residents at the Health Department at Demir Kapija Special Institution, with a view to ensuring that they all effectively benefit from an adequate level of medical and nursing care, and the relevant information to be recorded in their medical files. The medical files should contain diagnostic information (including the results of any special examinations which a patient has undergone), as well as an ongoing record of patients' mental and somatic state of health and of their treatment (paragraph 99);
- immediate measures to be taken at Demir Kapija Special Institution to ensure the respect of basic rules of hygiene in the institution, which should be regularly controlled by the medical doctor/nursing team. Further, residents should, as far as possible, wear their own clothes (paragraph 100).

#### comments

- groups for education/re-socialisation of residents accommodated in "Depandans" at Demir Kapija Special Institution did not benefit from a designated key-worker (paragraph 97);
- the presence of certain residents in the C Wards at Demir Kapija Special Institution - who displayed psychiatric symptoms and no evident signs of mental disability (cf. paragraph 101) - should be reviewed (paragraph 99);
- it is axiomatic that the placement of a resident in a specific ward at Demir Kapija Special Institution should match the criteria established when the differentiation policy was established (cf. paragraph 91), and should not be used as a disguised form of punishment (paragraph 101).

#### requests for information

- comments of the Ministry of Health on the issue of closing the somatic ward at Skopje Psychiatric Hospital and signing an agreement with a general hospital (paragraph 89).

## **Staff issues**

### recommendations

- the nurses' staffing levels to be substantially increased in the acute wards at Skopje Psychiatric Hospital, in particular during the afternoon and night shifts; they should also benefit from specific training for their tasks, in particular as regards the management of patients considered to represent a security risk for other patients and staff. Further, the orderlies should receive appropriate training before taking up their duties and they should always be closely supervised by - and subject to the authority of - qualified health care staff during the performance of their tasks (paragraph 103);
- staffing levels of defectologists, physiotherapists, nurses and orderlies to be substantially increased in the Health Department at Demir Kapija Special Institution. Particular attention should also be given to the reinforcement of staff working during the afternoon and night shifts (paragraph 106);
- the orderlies at the Health Department at Demir Kapija Special Institution should receive appropriate training before taking up their duties and they should always be closely supervised by - and subject to the authority of - qualified health care staff during the performance of their tasks (paragraph 106).

### comments

- the authorities are invited to consider the installation of an alarm system at Skopje Psychiatric Hospital (for example, panic beepers or buttons) for staff working in the acute wards. Further, management should establish specific procedures for dealing with serious incidents, with a view to enabling a sufficient number of staff to intervene in the ward concerned without undue delay (paragraph 104).

## **Means of restraint**

### recommendations

- a clearly defined policy on the use of means of restraint to be immediately drawn up and implemented at Skopje Psychiatric Hospital and Demir Kapija Special Institution, as well as in any other such establishment in "the former Yugoslav Republic of Macedonia", taking the criteria set out in paragraph 111 into account (paragraph 112);
- as soon as possible, net-beds to cease to be used as a tool for managing patients in a state of agitation in the ward for substance abusers at Skopje Psychiatric Hospital (paragraph 113).

### comments

- the authorities are invited to consider using single accommodation when applying means of restraint to patients/residents, in order to avoid this being done in the presence of other patients/residents and visitors (though this should not be to the prejudice of the close supervision required by such patients/residents) (paragraph 112).

## **Safeguards**

### recommendations

- immediate measures to be taken to ensure the full implementation of the legislation on involuntary placement in a psychiatric establishment/special institution and, in particular, that the control by the judicial authorities of involuntary placement measures taken vis-à-vis psychiatric patients is effective. Meeting this requirement will involve *inter alia* reviewing the case of each patient held in closed acute wards throughout the country (paragraph 115);
- the remarks made in paragraph 117 as regards safeguards during placement to be fully taken into account when finalising the draft legislation on mental health (paragraph 117);
- the remarks made in paragraph 118 as regards patients' free and informed consent to treatment to be fully taken into account when finalising the draft mental health legislation (paragraph 118).

### requests for information

- more detailed information on any safeguards offered by the existing legislation in the context of ex officio placement - and review of placement - of mentally disabled residents in Demir Kapija Special Institution (or any other similar institution in the country) (paragraph 120).

## **Final remarks**

### recommendations

- the Draft National Strategic Plan for Mental Health (2002-2012) to be finalised and implemented without delay. In this regard, a high priority to be given to the discussion, enactment and entry into force of the Law on Mental Health, which will no doubt reinforce the protection of psychiatric patients against ill-treatment (paragraph 121).

### comments

- the CPT would like to highlight the crucial importance of inter-ministerial cooperation in the context of social care, given that any reform of that sector will undoubtedly have ramifications in the health and education areas (paragraph 121).

### requests for information

- any relevant information concerning developments in the sectors of mental health and social care (paragraph 121).

**APPENDIX II**

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

**A. Ministerial authorities**

**Ministry of Justice**

- |   |                          |  |
|---|--------------------------|--|
| - | Ismail DARLISHTA         | Minister of Justice  |
| - | Snežana MOJSOVA          | Sector for European Integration and<br>International Legal Cooperation |
| - | Marija DELJOVA           | Department for International Relations                                 |
| - | Katerina LEVKOVA-JOVESKA | Prisons Administration   |

**Ministry of the Interior**

- |   |                     |   |
|---|---------------------|---|
| - | Hari KOSTOV         | Minister for the Interior   |
| - | Fatmir DEHARI       | Deputy Minister for the Interior  |
| - | Radivoja JOVANOVSKI | State Secretary for the Interior  |
| - | Branko BOJČEVSKI    | Director of the Bureau for Public Security                                      |
| - | Zoran JOVANOVSKI    | Head of the Police Division   |
| - | Zoran VERUŠEVSKI    | Head of the Directorate for Security and<br>Counterintelligence                 |
| - | Goran ZDRAVKOVSKI   | Commander of the Unit for Special<br>Assignments ("Tigers")                     |
| - | Toni STANKOVSKI     | Deputy Commander of the Special Police Unit<br>for Rapid Intervention ("Lions") |
| - | Vasile JANESKI      | Director of the Unit for Professional<br>Standards (EPS)                        |
| - | Trpe STOJANOVSKI    | Assistant Minister for International<br>Cooperation and European Integration    |
| - | Borko MARKOVSKI     | Assistant Under-Secretary, Police Division<br>(Liaison Officer)                 |

**Ministry of Foreign Affairs**

- |   |                 |  |
|---|-----------------|--|
| - | Ilinka MITREVA  | Minister for Foreign Affairs   |
| - | Igor DŽUNDEV    | State Adviser for Multilateral Relations   |
| - | Svetlana GELEVA | Head of Political Affairs Sector (Multilateral<br>Relations) (Principal Liaison Officer) |

**Ministry of Health**

- Rexhep SELMANI Minister of Health
- Snežana ČIČEVALIEVA Head of Sector for European Integration and International Cooperation
- Anđelina BACANOVIĆ Head of Legal Department

**Ministry for Labour and Social Policy**

- Maksut ALI Deputy Minister for Labour and Social Policy
- Navsiha PETROVSKA Head of Social Care Sector

**B. Other authorities**

- Jordan DESKOVSKI President of the Republic Judicial Council
- Vladimir SMIČKOVSKI Acting Prosecutor-General

**C. Inter-governmental organisations**

Organisation for Security and Co-operation in Europe (OSCE)  
International Committee of the Red Cross (ICRC)  
European Union (Office of the Special Representative)

**D. Non-governmental organisations and professional associations**

Macedonian Helsinki Committee for Human Rights  
Civic Society Resource Centre (CSRC)  
Macedonian Psychiatric Association