



CPT/Inf (2008) 22

**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 14 to 18 October 2007

The Government of “the former Yugoslav Republic of Macedonia” has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2008) 23.

Strasbourg, 10 September 2008

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Copy of the letter transmitting the CPT's report

Strasbourg, 21 November 2007

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 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 14 to 18 October 2007. The report was adopted by the CPT at its 64th meeting, held from 5 to 9 November 2007.

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

- i. to provide **within one month** confirmation that chains are no longer used as a means of restraint in prisons (paragraph 29), and that the heating arrangements in each block of Idrizovo Prison have been improved (paragraph 38);
- ii. to provide **within three months** a response providing a full account of action taken to implement all the recommendations contained in the report.

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

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

.../...

Ms Eleonora PETROVA-MITEVSKA
Ambassador Extraordinary and Plenipotentiary
Permanent Representative of "the former Yugoslav Republic of Macedonia"
to the Council of Europe
13, rue André Jung
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As emphasised in the concluding remarks of the visit report, the CPT trusts that vigorous steps will be taken by the Government of "the former Yugoslav Republic of Macedonia" to implement the recommendations made by the Committee in the report. In conjunction with adopting the attached report, the Committee considered whether to initiate the procedure envisaged under Article 10, paragraph 2, of the Convention*. I shall inform you separately of the outcome of that deliberation.

Yours faithfully,

Mauro PALMA
President of the European Committee for
the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment

* 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".

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 14 to 18 October 2007¹. The visit was one which appeared to the CPT "to be required in the circumstances" (cf. Article 7, paragraph 1, of the Convention).

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

- Mauro PALMA (Head of delegation and President of the CPT)
- Anna GAVRILOVA ANTICHEVA.

They were supported by Hugh CHETWYND of the CPT's Secretariat and assisted by Dan DERMENGIU, Head of Forensic Medicine, "Carol Davila" Medical Faculty, Bucharest, Romania (expert), and the following interpreters:

- Fatos KICA
- Petrit SARACINI
- Jasna ŠOPTRAJANOVA-VRTEVA.

B. Context of the visit

3. In the report² on the May 2006 periodic visit to "the former Yugoslav Republic of Macedonia", which was transmitted to the national authorities in November 2006, the CPT expressed its serious concern about the fact that the Committee was obliged to reiterate many of its recommendations, some of which were of very long standing. Moreover, the CPT highlighted that certain fundamental structural issues were undermining attempts to provide appropriate conditions of detention and treatment for persons deprived of their liberty. For example, in relation to prisons, it pointed to a lack of policy on how to manage complex institutions, an inadequate system of reporting and supervision, and the poor management and performance of staff. In this context, the CPT stated that it would be scrutinising the action taken as regards combating impunity, the conditions of detention in prisons and the treatment and care of particularly vulnerable persons.

¹ This was the CPT's seventh visit to "the former Yugoslav Republic of Macedonia". Three of the previous visits were of a periodic nature (17 to 27 May 1998, 18 to 27 November 2002 and 15 to 26 May 2006), and three were ad hoc visits (21 to 26 October 2001, 15 to 19 July 2002 and 12 to 19 July 2004).

² See CPT/Inf (2008) 5, paragraph 7.

In the above-mentioned report, the CPT also stressed that if the national authorities continued to fail to improve the situation in the light of the recommendations made, it may have no choice but to set in motion the procedure provided for in Article 10, paragraph 2, of the Convention³.

4. It is therefore regrettable that the response furnished by the Government of "the former Yugoslav Republic of Macedonia" to the report on the 2006 visit did not address many of the concerns identified by the Committee. This is particularly the case as regards the response to those sections of the report dealing with prison-related issues. With a view to pursuing a constructive dialogue, the President of the CPT addressed a letter to the authorities on 7 May 2007, highlighting some of the major shortcomings in the interim response and requesting that the final response address, in full, the concerns raised by the Committee. However, the response received on 15 June 2007 failed to provide a comprehensive and substantive reply to the CPT's report.

Before taking any formal decision with regard to the Article 10, paragraph 2, procedure, the CPT felt it was best to carry out another visit to "the former Yugoslav Republic of Macedonia" in the hope of promoting a meaningful dialogue with the national authorities. The main purpose of the visit was to examine the steps taken by the authorities to implement recommendations made by the CPT after the May 2006 periodic visit and to hold high-level talks with the national authorities with a view to enhancing their co-operation with the Committee, within the meaning of Article 3 of the Convention.

To this end, the delegation focused on the treatment and conditions of detention of sentenced and remand prisoners. In this context, it assessed developments in relation to prison health-care services and examined the use of means of restraint within prison. Particular attention was also paid to the issue of safeguards against ill-treatment of persons detained by law enforcement officials. At the end of the visit, the delegation held wide-ranging talks with the national authorities to discuss the response to the report on the 2006 periodic visit, and to provide feedback on the findings of the 2007 visit.

³ 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".

C. Establishments visited

5. The delegation visited the following places of detention:

Establishments under the authority of the Ministry of Interior

- Bit Pazar Police Station, Skopje
- Gazi Baba Police Station, Skopje
- Tetovo Police Station

Establishments under the authority of the Ministry of Justice

- Idrizovo Prison
- Skopje Prison (remand section)
- Tetovo Prison (remand section)

D. Co-operation

6. In the course of the visit, the delegation was granted immediate access to the detention facilities it wished to visit and to the persons it wanted to interview, and most of the information required to carry out its task was promptly provided.

At the end of the visit, the CPT's delegation held consultations with Gordana JANKULOVSKA, Minister of the Interior, Mihajlo MANEVSKI, Minister of Justice, and Zoran PETROV, Deputy-Minister of Foreign Affairs, as well as with Jurgen MIHAJLOVSKI, Director of the Directorate for the Execution of Sanctions, and other senior officials from relevant Ministries. The delegation also met with Ljubomir JOVEVSKI, Deputy-State Prosecutor

7. Further, the CPT's delegation had an opportunity to meet with a State Counsellor from the Ministry of Labour and Social Policy with a view to being provided with information in respect of the death of Imran Ibrahimovski in Demir Kapija Special Institution for mentally disabled persons⁴. The official autopsy report on his death had stated clearly that the bronchopneumonia from which he died was a direct consequence of a fractured rib and a bruised lung, inflicted by a blunt force⁵. Yet, as far as the CPT is aware, no proper investigation by the prosecutor's office or any internal inquiry by the Institution's management has ever been undertaken. Further, in respect of the seven deaths that occurred in January and February 2007 in Demir Kapija, the CPT had enquired, by letter of 7 May 2007, whether a forensic autopsy had been carried out in any of these cases. In this connection, it had also requested the authorities to respond to the concerns of the Committee as regards forensic autopsies⁶. Unfortunately, the CPT's interlocutor was not in a position to provide any information on these matters. **The CPT requests to be provided with a response in respect of the matters raised above.**

⁴ See CPT/Inf (2008) 5, paragraph 159

⁵ Ibid. The authorities initially denied that there were any elements of violence in the death, despite the clear language of the autopsy report. However, in their final response of 15 June 2007 to the CPT's report on the 2006 visit, the Committee was informed that the Ministry of Labour and Social Policy would consult with the Public Prosecutor's Office in order « to initiate a renewed investigative procedure ».

⁶ See CPT/Inf (2008) 5, paragraph 37

8. The delegation once again encountered officials - including some in senior positions - who lacked familiarity with previous CPT reports, despite the fact that those reports had focused on serious problems falling under their responsibility. For example, the senior management of Idrizovo and Skopje Prisons, including the Directors, were not aware of the findings of the 2006 visit. It appeared that they had only received extracts of the prisons section of the report on the 2006 visit, by fax, on Monday, 15 October 2007. Further, even at this very late stage, several parts dealing with important issues, such as staffing, conditions of detention and the overall assessment of the prison system, were still not disseminated. In this respect, **the CPT recommends that the contents of the report drawn up after a visit be brought to the attention of all the relevant authorities and staff, in an appropriate form. Further, translations of CPT reports in the relevant languages should be made widely available, and it would be desirable to make use of them in the training of senior management working with persons deprived of their liberty.**

9. The CPT has emphasised on numerous occasions that the principle of cooperation set out in the Convention also requires that decisive action be taken to improve the situation in the light of the Committee's recommendations. Further, it goes without saying that the CPT expects the information provided in a State's response to be accurate. However, in the course of the 2007 visit, the CPT's delegation learned that certain information provided in the response to its report on the 2006 visit, as well as during the 2007 visit, was inaccurate.

For example, at the end of the 2006 visit, the CPT made an immediate observation requesting that the authorities confirm that every remand prisoner is offered at least one hour of outdoor exercise every day⁷. By letter of 29 June 2006, the CPT was informed by the Director of the Directorate of Execution of Sanctions of instructions issued that "each prisoner be given the possibility to engage in sports activities for at least 1 to 2 hours a day". However, the CPT's delegation found that inmates in the remand section of Skopje Prison were usually only permitted some 15 to 20 minutes of outdoor exercise per day, while remand prisoners at Tetovo Prison benefited from only 20 minutes of outdoor exercise some four times a week, on average, and never on weekends.

Another immediate observation made by the CPT concerned the request to issue guidelines to all prisons to ensure appropriate care for persons at risk of self-harm or suicide. By the same letter of 29 June 2006, the CPT was informed that "the use of means of control should in no event be used ... for prolonged periods; a report should be drawn up and special records should be kept, and by virtue of Article 188 (2) of the Execution of Sanctions Act any use of means of control should be reported in written form to the Execution Sanctions Department." However, the delegation did not find any reports or special records on the use of means of restraint, in the course of the 2007 visit, nor had any instructions on the use of means of restraint been drawn up as provided for in paragraph 3 of Article 186 of the Law.

These are but two examples among many of information provided to the Committee which proved to be unreliable.

⁷ See CPT /Inf (2008) 5, paragraphs 8 and 70.

10. As the delegation pointed out to its various interlocutors during the visit, it is imperative that the Committee be provided with complete and accurate information in relation to the various issues raised in its reports. The responses to the CPT's reports represent the basis for a dialogue designed to identify and rectify any shortcomings in a State's fulfilment of its obligation to prevent the possibility of torture and inhuman or degrading treatment or punishment. If the information provided to the Committee cannot be considered as reliable then there is a clear failure to cooperate.

However, the response by the Government of "the former Yugoslav Republic of Macedonia" to the report on the 2006 visit, particularly as regards the prisons section, failed to address most of the issues raised by the Committee. Consequently, the necessary elements required for pursuing a constructive dialogue have to date been missing.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Law enforcement agencies

1. Preliminary remarks

11. The CPT's delegation carried out follow-up visits to Tetovo Police Station and, in Skopje, to Bit Pazar and Gazi Baba (also known as Avtokomanda) Police Stations. It also interviewed people who had recently been apprehended by the police and were currently on remand in Skopje and Tetovo prisons.

12. As noted in the report on the 2006 visit, a new Law on the Police was adopted on 3 November 2006 which the Committee broadly welcomes⁸. The challenge now, as the Minister of Interior stressed during her meeting with the delegation, lies in ensuring its full application.

2. Ill-treatment

13. As was the case in 2006, a number of persons interviewed by the delegation in the course of the 2007 visit alleged they had been ill-treated by law enforcement officials. The alleged ill-treatment consisted mostly of kicks, punches and blows with batons or various other objects, apparently often inflicted prior to and during questioning; either with a view to extracting a confession or obtaining information or as a punishment. Certain allegations also referred to the use of excessive force at the time of arrest. It should be noted that in most cases the allegations of ill-treatment concerned non-uniformed police officers, in particular members of the Special Mobile Police Units (more commonly known by their acronym "Alfa") and of the drugs squad (NTSh) based in Gazi Baba Police Station. The delegation also received several allegations that, in the course of interviews within Idrizovo Prison, inmates had been slapped and punched by officers of the drugs squad.

14. The time of the alleged ill-treatment pre-dated the delegation's visit by several weeks and any marks which might have been caused by the ill-treatment alleged would almost certainly have healed in the meantime. Further, as there is still no screening of injuries upon admission to prison, the rudimentary medical files were of no value. Nevertheless, the delegation was able to corroborate several of the allegations through individual interviews with inmates in separate cells and through its findings from visits to certain police stations.

⁸ See CPT/Inf (2008) 5, paragraph 11.

15. The information gathered in the course of the 2007 visit concerning ill-treatment highlights the necessity for continued determined action by the authorities to address the situation. All means should be explored to ensure that the message of zero tolerance of ill-treatment of detained persons reaches all law enforcement officials at all levels; they should be made aware, through concrete action, that the government is resolved to stamp out ill-treatment of persons deprived of their liberty. The rule of law entails not only the adoption of the appropriate legal norms but also taking the necessary steps to ensure their application. There should periodically be an instruction from the Minister of Interior or the Chief of Police explicitly reminding police officers that infringements of the law will result in criminal and disciplinary sanctions. **The CPT recommends that the national authorities strenuously reiterate the above message of zero tolerance of ill-treatment of persons deprived of their liberty and reinforce it with a statement at the appropriate political level.**

16. As stressed in previous reports, it is imperative that prosecutors and judges should take appropriate action when there are indications that ill-treatment by the police may have occurred. Once again, the delegation received allegations that prosecutors and judges did not act upon claims of ill-treatment when they were brought to their attention.

The CPT recommends, once again, that whenever persons brought before a prosecutor or judge allege ill-treatment by law enforcement officials, the prosecutor/judge 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 a procedure 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 prosecutor/judge should adopt a proactive approach; for example, whenever there are other grounds to believe that a person brought before him could have been the victim of ill-treatment, a forensic medical examination should be requested. If necessary, guidelines should be issued by the appropriate authorities.

3. Safeguards against ill-treatment

17. In previous visit reports, the CPT examined in detail the formal safeguards against ill-treatment, offered to persons detained by law enforcement officials, and their operation in practice. In their response of 15 June 2007, the national authorities stated that “the Ministry of Interior has already undertaken a series of measures for purposes of establishing relevant guarantees for the exercise of rights of persons held in police custody ... inter alia ... the right to defence at any stage of the police procedure; the right to health care and medical assistance; the right that the family or another person are informed about the police custody of the concerned person”.

Regrettably, the findings from the 2007 visit highlighted, once again, that in “the former Yugoslav Republic of Macedonia” these rights are not effective in practice.

18. In spite of the clear legal obligation in law to grant access to a lawyer as from the outset of deprivation of liberty, the CPT’s delegation heard claims from a number of detained persons that access to a lawyer had been delayed until the end of the preliminary investigation, some 24 hours or more after their apprehension. Moreover, many persons stated that they had not had an opportunity to consult with a lawyer, in private, prior to appearing in court.

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

The delegation also heard several allegations that persons had not been given the opportunity to notify a close relative or another third party of their detention.

The CPT calls upon the national authorities to take immediate steps to ensure that all persons deprived of their liberty by law enforcement officials have an effective right to notify a close relative or third party of their choice of their situation⁹, and to have access to a lawyer, in private, as from the very outset of their deprivation of liberty.

19. The right of persons in police custody to have access to a doctor continues to be problematic. In the course of the visit, several persons who alleged ill-treatment by law enforcement officials stated that they had not been offered the opportunity to contact a doctor. The CPT has noted that Article 34 of the Law on Police, which will enter into force on 11 November 2007, states that a detained person will be informed of their “right to medical assistance”. It welcomes this positive development. Nevertheless, **the CPT recommends that the national authorities supplement this general legal provision with specific instructions on this matter, in accordance with previous recommendations** (see CPT/Inf (2006) 36, paragraph 41).

4. Material conditions

20. The CPT has taken note of the authorities’ response of 15 June 2007, in which they informed the Committee that the new Law on Police limits the number of places in which people may be held in custody to 38 police stations. Further, general information about a project to align the conditions in all police stations with European norms was provided. However, no details were provided and certainly no evidence of any modifications could be observed in the three police stations visited. For example, the unlit cell in Tetovo Police Station remains in service. The CPT has stated that “to hold a person in a dark cell, for any length of time whatsoever, is unacceptable” and has recommended urgent measures be taken to remedy that shortcoming in its 1998 visit report, and in three subsequent visit reports. Continued use of the above-mentioned cell is a clear example of a failure to cooperate.

The CPT calls upon the national authorities to take the necessary measures in the light of the above remarks and those contained in the 2006 visit report (see CPT/Inf (2008) 5, paragraph 24).

⁹ Any possibility to delay exceptionally the exercise of this right should be clearly circumscribed in law, be made subject to appropriate safeguards (i.e. any delay to be recorded in writing along with the reason, and to require the approval of the prosecutor or judge) and be strictly limited in time.

B. Prison establishments

1. Preliminary remarks

21. The majority of issues raised by the CPT in its report on the 2006 visit in relation to prison matters have not been addressed. Moreover, the response provided to the CPT proved to be unreliable in several instances; for example, as concerns the use of means of restraint, the screening of new arrivals into the prison system and access to outdoor exercise. These are clear instances of lack of cooperation.

The high-level talks held with the Minister of Justice and the Director of the Directorate of Execution of Sentences provided an opportunity for an exchange of views on the challenges facing the prison system. It further enabled the CPT's delegation to emphasise the importance attached by the Committee to receiving a response which addresses the various concerns and recommendations in a comprehensive manner.

Further, the delegation informed the Minister of Justice that from the visits conducted to Idrizovo Prison and to the remand sections of Skopje and Tetovo prisons, it was evident that there have been no improvements since the 2006 periodic visit.

22. The CPT's delegation was informed on several occasions about plans to build new prisons and to renovate existing ones, and that a budget of some 12 million Euros had been allocated for this purpose for the years 2007 to 2010. However, while the CPT acknowledges the necessity for such a prison building programme it will not, of itself, address many of the fundamental issues raised by the CPT in its report on the 2006 visit.

There remain a number of fundamental structural organisational issues, as already pointed out in paragraph 3 above, which serve to undermine any attempts to provide appropriate conditions of detention and treatment for persons deprived of their liberty.

The delegation was also deeply concerned by the continued inadequate provision of health-care at Idrizovo and Skopje prisons, the very low staffing levels (and the corresponding effects this had upon professionalism and morale), the lack of any appropriate regime, and the existence of conditions of detention that could be considered as inhuman.

If prisons are to meet the stated goal of providing "security and rehabilitation", the national authorities need to address, in a comprehensive manner, all the various aspects associated with running a modern prison system. Otherwise, the investment in the prison estate will not result in improved treatment of prisoners and better working conditions for staff.

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

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

23. In its report on the 2006 visit, the CPT commented on the new Law on Execution of Sanctions and requested to be provided with copies of the House Rules for Idrizovo and Skopje prisons. It also requested information on the institution of a State Commission, which is supposed to conduct visits to prison establishments with a view to supervising the application of the law and submitting reports on its findings to the Ministry of Justice. At the time of the 2007 visit, the respective House Rules had not yet been adopted and the State Commission was still not operational

The CPT would like to receive a copy of the new House Rules for Idrizovo and Skopje Prisons. Further, it trusts that all bye-laws and bodies envisaged by the Law on Execution of Sanctions will be adopted and/or established without further delay.

24. As regards the *Educational-Correctional Institution*, located since 2001 in the open section of Skopje Prison, the CPT was informed in March 2007 that a ministerial-led committee had been established to review the situation and to propose a lasting solution as regards its location and functioning. However, at the time of the visit there had been no developments concerning these matters. Further, the Committee received no response to the specific concerns raised in its 2006 report, including those dealing with ill-treatment, staffing matters, activities, material conditions of detention, and the provision of health-care.

The CPT wishes to be informed about the proposals for suitable alternative premises for the Institution, and the timelines for their implementation. Further, it calls upon the national authorities to provide information on the action taken by the national authorities to address the shortcomings at the Educational-Correctional Institution identified in the report on the 2006 visit (see CPT/Inf (2008) 5, paragraphs 111 to 127).

2. Ill-treatment

25. Once again, the delegation heard a considerable number of allegations of ill-treatment of prisoners by staff in Idrizovo Prison and Skopje Prison (remand section). The allegations mainly consisted of being beaten with truncheons as well as being punched and kicked and even hit with chains. For example, in Idrizovo Prison the delegation received numerous allegations that prisoners continued to be beaten by staff in the staff room on the ground floor of the closed part of the prison, prior to being placed in an isolation cell. In Skopje Prison, there were several allegations concerning beatings of prisoners with truncheons and chains, which were said to usually occur in the washrooms of the facility.

These allegations confirm a practice already referred to in the report on the 2006 visit. In both prisons, particular officers were frequently cited by inmates as being responsible for inflicting ill-treatment and, at least in Idrizovo Prison, the head of security was, according to those persons who alleged ill-treatment, not only aware of the alleged beatings but actually participated in them.

26. The authorities must not only undertake a proper investigation into allegations of ill-treatment, but also institute measures to ensure that all prison officers and managers understand why ill-treatment is unacceptable and unprofessional and that, furthermore, it will result in severe disciplinary sanctions and/or criminal prosecution.

The CPT recommends that the Minister of Justice delivers a clear message to all custodial staff that ill-treatment of prisoners is not acceptable and will be the subject of severe sanctions.

In addition, the CPT would like to receive information on the concrete measures taken to eradicate ill-treatment of prisoners by prison staff, including through improved management and supervisory mechanisms. Moreover, it would like to be informed about the investigation into the alleged participation of the head of security at Idrizovo Prison in the ill-treatment of prisoners.

27. In its report on the 2006 visit, the CPT addressed the issue of the use of means of restraint in prison and referred to several cases in Skopje Prison, where juveniles and other inmates had been restrained in a manner that could be considered as inhuman and degrading. The CPT recommended that clear guidelines be drawn up to ensure appropriate psychological assessment and care for persons at risk of self-harm or suicide. Further, it laid out the safeguards that needed to be put in place for those rare cases where resort to instruments of mechanical restraint was required to prevent an agitated or violent prisoner from harming themselves or someone else. It also requested confirmation that chains were no longer used as means of restraint in prison¹⁰.

By letter 29 June 2006, the authorities indicated that they had implemented the CPT's recommendation on the use of means of restraint. Regrettably, this information did not reflect the reality within Skopje Prison.

¹⁰ See CPT/Inf (2008) 5, paragraphs 50 and 51.

28. The Committee continues to have grave concerns in relation to the reasons for the resort to fixation, its duration, the means employed, the lack of supervision and the inadequate recording of the measure. The delegation met at least five persons, including a juvenile, who had been fixated to their beds by a combination of metal ankle and handcuffs as well as, in two cases, chains during the weeks prior to its visit.

For example, the delegation met an 18 year old inmate who, according to the various prison registers, had been chained to his bed continuously between 19 September and 12 October 2007¹¹. Lying on his back, his ankles were cuffed to the bed and his hands cuffed together in front of him, with a chain wrapped around each of his arms and padlocked to either side of the bed. Trussed up in such a position, it was left to his cell-mate to care for him: to spoon feed him at meal times and assist him to urinate in a plastic bottle. During this period he was only occasionally unchained to go to the toilet, was apparently only offered outdoor exercise for a few minutes on three occasions and was not offered a possibility to shower. He was also allegedly punched in the face by a prison officer, while chained, an action apparently witnessed by another inmate and given further credence by his blood-smeared shirt. Finally, the inmate in question was only unchained after his cell-mate had written a request, on his behalf, to the Director of the Prison, with an undertaking that the 18 year old would behave¹².

In the view of the Committee, treatment such as that described above is inhuman and degrading.

29. The CPT considers that any measures of mechanical restraint must involve the use of appropriately designed restraint equipment, that is properly applied by suitably trained staff, must be monitored and recorded, including centrally, and must be carried out in such a way as to maintain the dignity and safety of the prisoner. Mechanical restraints should never be applied as a punishment or for the staff's convenience. Moreover, resort to such restraints should not usually take place in the presence of other inmates and there should always be a continuous direct personal supervision by staff, with the measure lasting only until such time as the prisoner has calmed down (usually minutes rather than hours, and certainly never days).

The CPT calls upon the national authorities:

- **to ensure that chains are no longer used as a means of restraint in prisons in “the former Yugoslav Republic of Macedonia”;**
- **to draw up an instruction on the use of means of mechanical restraint, taking into account the remarks made above.**

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

¹¹ None of the registers (daily log book, medical file) stated the reason for the fixation. The Director of the prison, when asked about his case, said that the inmate was a « Houdini », who had to be kept fixated in order to prevent him from escaping from prison again.

¹² Writing a letter to the Director requesting to no longer be fixated was apparently standard practice. The delegation also saw a handwritten note by a prison officer stating that since an inmate had promised to behave his restraints were removed.

30. As was the case during the 2006 visit, the Committee's delegation found that inter-prisoner intimidation/violence was a significant phenomenon in Idrizovo Prison. Further, the authorities were still not taking any measures to combat it¹³.

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

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

The CPT calls upon the national authorities to take the necessary steps at Idrizovo Prison to improve the quality of managerial supervision and decision-taking, and to make the prison safe for both prisoners and staff through, inter alia, increasing the number of staff present in the accommodation areas.

31. More generally, an integrated strategy to tackle inter-prisoner violence should be developed in all prison establishments of "the former Yugoslav Republic of Macedonia". The cornerstone of such a strategy, if it is to be effective, must be the provision of prison staff in sufficient number so as to be in a position to exercise their authority in an appropriate manner (see Section 3 below). Staff must be alert to signs of trouble and be both resolved and properly trained to intervene when necessary; what is more, prison staffing levels need to be adequate at night as well as during the day. Another key component in the management of inter-prisoner relations is the careful assessment, classification and cell allocation of individual prisoners within the prison population.

Preventing inter-prisoner violence also requires the diligent examination by the prison administration of all relevant information regarding alleged inter-prisoner violence which may come to its attention and, where appropriate, the instigation of proceedings. The lack of an appropriate reaction by the prison administration can foster a climate in which inmates minded to ill-treat other inmates can quickly come to believe - with very good reason - that they can do so with impunity. Further, prison doctors and nursing staff have an important part to play in this context, as they are often the first people to whom detainees turn after being ill-treated or threatened by fellow inmates.

The CPT recommends that the national authorities draw up a comprehensive plan to tackle inter-prisoner violence in all prison establishments. Such a plan should address the specific challenges within each establishment, and should make reference to:

- **appropriate staffing levels on all units throughout the day and night;**
- **training for staff on prevention and management of incidents of inter-prisoner violence;**
- **assessment, classification and cell allocation of prisoners;**
- **detection and follow-up of cases of inter-prisoner violence;**
- **the development of a meaningful regime.**

¹³ See CPT/Inf (2008) 5, paragraphs 52 to 54

3. Staffing issues

32. In its report on the 2006 visit¹⁴, the CPT highlighted the importance of each prison having sufficient numbers of well-trained prison officers deployed in an effective and efficient manner. The CPT recommended that staffing levels and staff deployment be reviewed, with a view to ensuring that the number of prison officers employed is sufficient to guarantee staff safety and the physical and mental integrity of inmates. The authorities stated in their interim response that “a significant number of staff in all profiles, especially medical” would be recruited.

However, during the 2007 visit, the delegation found that the poor staffing levels observed in 2006 had not improved, at all, in any of the prisons visited and, as regards medical personnel, had actually deteriorated. Moreover, the deployment of staff continued to be inefficient with the same number of prison officers on duty during the day - meals, washing, escorts to the infirmary, visits, activities, etc. - as during the night. Further, the delegation noted, once again, the acute underemployment of staff at both Skopje and Idrizovo Prisons, and observed that for significant periods of the day many of the staff appeared to be doing nothing¹⁵.

The CPT calls upon the national authorities to review the staffing levels and staff deployment in all the prisons and, subsequently, to inform the Committee about the concrete action being taken.

33. At Idrizovo Prison, the delegation received allegations from nearly every prisoner with whom it spoke concerning the involvement of staff in the traffic of mobile phones¹⁶, drugs and other illicit goods. The existence of a widespread belief among prisoners that anything can be bought undermines attempts to create order within the prison and to develop positive staff-prisoner relations. **The CPT recommends that an investigation be instituted into the allegations of staff involvement in the trafficking of illegal goods.**

34. Further, the CPT expressed the hope, in 2006, that the national authorities would develop a professional prison administration without the constant turnover of senior management that has characterised the prison system in recent years. However, the lack of a stable professional senior prison management continues to be evident; for example, the incumbents of the posts of the Director of the Directorate of the Execution of Sanctions and of the Director of Idrizovo (the country’s largest and most complex prison) have each been changed three times since the CPT’s visit in May 2006. **The CPT recommends that the national authorities develop a professional managerial career path within the prison system, based exclusively upon the competences required for managing an evolving prison system.**

¹⁴ See CPT/Inf (2008) 5, paragraphs 55 to 59.

¹⁵ In Skopje Prison, on three separate occasions, members of the delegation had to spend some 20 minutes attempting to attract the attention of prison officers in order to be let out of cells. The call bells (usually two exposed wires) apparently did not work, and no officer was present on the wings. Yet, there was always 6 or 7 officers sitting around in the reception area.

¹⁶ The delegation had been informed that telephone blockers had been installed in the prison. However, in the closed section of the prison not only did many of the inmates possess mobile phones but the blockers did not work, as the delegation discovered.

4. Conditions of detention

35. The CPT was concerned to learn that, contrary to the response received from the authorities, nothing has changed as regards the material conditions in the remand section of *Skopje Prison* since the 2006 visit¹⁷. The interim response stated, in respect of Skopje Prison, that “one prison wing has been completely renovated and the high security ward renovated”. In reality, the same deficiencies persist, such as pervasive dampness in the cells, old mattresses and many dilapidated and unhygienic cells. Access to natural light was poor and the artificial lighting inadequate, ventilation was minimal and call bells did not function. Most of the cells continued to be overcrowded, with some inmates having to sleep on a mattress on the floor. Moreover, the sanitary facilities were in a poor condition. Inmates usually spend at least six months in such conditions, frequently more than one year and, on occasion, even up to two years and beyond.

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

By contrast, the former admission department of the prison had been converted into five rooms for persons currently indicted by the International Criminal Tribunal for the former Yugoslavia, whose cases may be transferred to “the former Yugoslav Republic of Macedonia” for trial. The contrast with the miserable conditions in the cells in the remand section on the floor below was striking. These single occupancy rooms each measuring some 18m², were equipped with a television and a personal computer, multiple wooden cupboards, a table and chair, parquet floors and a tiled three-sided sanitary partition. The rooms were empty and, apparently, there was no indication that they would be occupied in the near future.

36. As regards the remand section of *Tetovo Prison*, four new cells have now been brought into service. However, as already pointed out by the CPT in 2006, they replicate the structural deficiencies of the older cells, in particular as regards their size and lack of access to natural light. The other eight cramped, damp and dilapidated cells were still in use. Given that inmates spend practically the whole of the day confined to these cells, it is essential that the conditions of detention be improved through renovating the older cells. **The CPT recommends that the necessary steps be taken in the light of the above remarks.**

37. In *Idrizovo Prison*, squalid living conditions in an unsafe and unhygienic environment continue to prevail in a majority of the living quarters. No significant improvements have been made since the 2006 visit¹⁸. The conditions in the geriatric unit, the unrenovated Wing B of the closed section of the prison, and in most of the rooms of “the school” and semi-open unit could certainly be described as inhuman and degrading.

¹⁷ See CPT/Inf (2008) 5, paragraphs 60 and 61.

¹⁸ See CPT/Inf (2008) 5, paragraphs 62 to 67

For example, the buildings were, in many areas, dilapidated and crumbling with parts of the floors and walls missing, windows broken or absent, dampness prevalent and the common spaces dirty and malodorous. The mattresses and prison-issue blankets were insect-infested and decrepit, and cockroaches swarmed around the beds and lockers. Many prisoners had rashes over their bodies from insect bites. The sanitary facilities were squalid, and were also used by prisoners for washing their eating utensils. Moreover, with winter approaching many of the units did not appear to have provision for adequate heating; certainly, the woodburners operating in many of the units were not effective.

Clearly, the minimum standards laid down in the Law on Execution of Sanctions, of January 2006, were not being complied with. In sum, contrary to the information provided in their response to the CPT, the authorities have taken no measures to improve the conditions at Idrizovo Prison. This represents, in the view of the Committee, a failure to cooperate.

38. In the light of the above, **the CPT calls upon the national authorities to take:**

- **immediate steps to render Idrizovo Prison safe and hygienic through inter alia removing the open sewers, repairing the sanitary facilities, providing sufficient detergent and hygienic products, instituting a preventive health care programme that emphasises cleanliness, replacing decrepit mattresses, furnishing clean bedding, eradicating the infestation of cockroaches and other vermin, replacing broken window panes and repairing the floors and roofs, and ensuring adequate heating and artificial lighting in all living areas;**
- **immediate steps to devise a phased programme (with clear timelines) to reduce the occupancy levels in the multi-occupancy dormitories to ensure a minimum of 4 m² per prisoner.**

The Committee wishes to receive a list of the concrete measures taken by the national authorities, further to the above recommendations, for each of the accommodation blocks in Idrizovo Prison.

39. As to the regime, the comments made in the report on the 2006 visit continue to be relevant¹⁹. However, as the authorities did not address this matter in their responses to date, **the CPT trusts that it will now receive a considered response in the light of the remarks and recommendations in its 2006 visit report.**

¹⁹ See CPT/Inf (2008) 5, paragraphs 69 to 73.

40. In respect of access to outdoor exercise, the CPT has already made reference in paragraph 7 above to the inaccurate information it received in relation to Skopje and Tetovo Prisons. The CPT has been raising the failure to observe this fundamental safeguard with the Government of “the former Yugoslav Republic of Macedonia” since 2002; the Committee now expects immediate action to be taken to guarantee its application. **The CPT calls upon the national authorities to take the necessary steps, without any further delay, to institute a regime permitting all remand prisoners to be offered a minimum of one hour of outdoor exercise every day.**

41. As regards food at Idrizovo Prison, the Committee was informed, by letter of 15 June 2006, that measures had been taken to improve the quality and quantity of food being prepared and served to prisoners. However, one of the principal complaints made by prisoners concerned the food and, once again, the delegation was able for itself to observe both the meagre portions and the inadequacy of the diet. No fresh fruit or vegetables were provided, and only those prisoners with family and money could obtain food supplements every two weeks. The doctor admitted to the delegation that time did not permit him to verify whether the purported menu, signed by himself and the Director of the Prison, tallied with what was actually served.

The delegation was informed that the kitchen would be modernised in the near future. Nevertheless, the authorities must take immediate steps to ensure all meals correspond to the minimum legal norms and to the daily menu as drawn up by the doctor and approved by the Director of Idrizovo Prison. Further, the quality and quantity of the food being provided to prisoners should be routinely recorded and monitored on a regular basis. **The CPT calls upon the national authorities to take the necessary measures in the light of the above remarks.**

5. Health-care services

42. Regrettably, the findings of the delegation during the 2007 visit illustrate, all too vividly, that the health-care services in Idrizovo and Skopje prisons have further deteriorated since the visit in 2006. More specifically, none of the CPT’s recommendations concerning issues such as staffing, medical screening upon admission, medical confidentiality and health-care policy concerning somatic, psychological and/or psychiatric care have been implemented by the national authorities²⁰.

For example, at Idrizovo Prison the dire lack of medical staff means that prisoners are de facto running the medical centre (maintaining the medical files, registers and archives, and distributing medication). Moreover, due to financial constraints the dentist, ophthalmologist and gynecologist have stopped attending the prison since January 2007, and many aspects of normal health-care do not function. There is no preventive health-care programme in place to monitor and improve the conditions of hygiene within the prison. Not surprisingly, the delegation received many complaints from prisoners about the problems of access to the health care service.

Further, the state of the medical facility is such that it needs to be completely renovated and re-equipped or closed down.

²⁰ See CPT/Inf (2008) 5, paragraphs 74 to 91.

In the light of the above remarks, **the CPT calls upon the national authorities to urgently review the general state of the health-care services in prison establishments, starting with Idrizovo and Skopje prisons, so as to meet the "equivalence of care" principle. Improving health-care in prison will necessitate *inter alia* the hiring of additional qualified medical staff.**

43. In the course of the 2006 visit, the CPT's delegation had requested that a number of prisoners be transferred from Idrizovo Prison to a psychiatric hospital for assessment, placement and treatment, as the prison was not a suitable place for their mental and physical wellbeing. Further, prison staff were incapable of looking after them. By letter of 15 June 2006, the CPT was informed that the persons in question had been transferred to an appropriate psychiatric institution.

However, in the course of the 2007 visit to Idrizovo Prison, the CPT's delegation learned that all the persons whom it had requested be transferred to a psychiatric institution in 2006 were, once again, in the prison. One of these persons, as witnessed by the delegation, continued to have fits, apparently on a daily basis, during which he smashed objects and upturned bunk-beds in his dormitory, before being controlled by other prisoners.

In the report on the 2006 visit, the CPT pointed out that the existing domestic mechanisms were not operating effectively, and recommended that the procedures for transferring prisoners suffering from psychiatric disorders to an appropriate institution for assessment be reviewed. To date, no response on this matter has been received. **The CPT reiterates its recommendation that the national authorities carry out such a review.**

44. As to medical screening, in its response of 15 June 2007, the national authorities informed the CPT that it had instituted a system of thorough medical screening for each new inmate admitted to prison, including documenting allegations of ill-treatment in accordance with the recommendations made by the Committee. Further, the response stated that in the case of injuries being noted the Public Prosecutor's Office would be informed. This appeared to be a positive step forward.

However, the reality is that such a screening process has never been instituted and certainly did not exist at the time of the delegation's visit. In fact, there was no screening at all for injuries and any medical screening that did take place for newly-admitted inmates was superficial and perfunctory, consisting of only an interview and no physical examination. Such screening is indispensable, in particular in the interests of preventing the spread of transmissible diseases, suicide prevention and the timely recording of any injuries. The failure by the authorities to address this matter adequately represents another example of lack of cooperation.

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

Further, the CPT calls upon the national authorities to put in place a clear procedure for ensuring that all allegations and other evidence of ill-treatment by the police of persons subsequently remanded in custody are properly recorded and brought to the attention of the Public Prosecutor's Office (see CPT/Inf (2008) 5, paragraph 46).

45. As regards medical confidentiality, the CPT has already addressed the question of the systematic presence of prison officers during medical examinations in prison.²¹ In their response to the Committee's report on the 2004 visit the authorities had indicated that this recommendation would be implemented. However, the findings from the 2007 visit reveal that there has still been no progress in this regard.

In addition, the confidentiality of medical data is still not being respected. In Idrizovo Prison, prisoners not only had access to medical files but were actually entrusted with maintaining them. Such a task is the responsibility of a doctor. When not being consulted, medical files should be locked away in a place to which neither prison staff nor prisoners have access.

The CPT calls upon the national authorities to take steps to ensure that medical confidentiality is fully guaranteed in all prison establishments. This implies that all medical examinations of prisoners should be conducted out of the hearing and - unless the doctor concerned requests otherwise in a particular case - out of the sight of prison officers.

Further, the CPT reiterates its recommendation that additional steps be taken to ensure that the confidentiality of medical data is respected.

46. In the light of the increasing problem of drugs in prisons, which was strikingly evident to the delegation during the 2007 visit, the CPT is concerned that its remarks and recommendations on this matter, as outlined in paragraph 91 of the report on the 2006 visit, have not been addressed by the Government of "the former Yugoslav Republic of Macedonia".

It is essential that the authorities acknowledge the widespread availability of illicit drugs in Idrizovo Prison, which is bound to have very negative repercussions on all aspects of prison life. **The CPT recommends that immediate steps be taken to prevent trafficking in drugs, including through security checks on staff and visitors entering the prison.** However, the Committee would stress that **it would be highly undesirable for any new measures adopted vis-à-vis drug trafficking to unduly restrict prisoners' contacts with the outside world or to limit the regime activities or association possibilities offered to them.**

Further, the CPT calls upon the the national authorities to draw up a comprehensive strategy for the provision of assistance to all prisoners with drug-related problems, as one aspect of a national drugs strategy.

²¹ See CPT/Inf (2006) 36, paragraph 58.

47. Further, in the report on the 2006 visit, the CPT expressed its concerns that methadone therapy was being provided to all addicts without any differentiation of the types of illicit drugs they were taking and that there was no psycho-social support to accompany such treatment. The situation has not evolved. Moreover, it is evident that there is no strategy or clear objective to the methadone substitution programme. Given that the treatment programme provides no medical, social or psychological support and is taking place within an environment where illicit drugs are abundant²², neither long-term abstinence nor a reduction in the use of illicit drugs could be considered as realistic goals. With no incentives or sanctions in place, what is the purpose of the programme? **The CPT would appreciate the comments of the national authorities on this matter, in the light of the above remarks.**

6. Other issues related to the CPT's mandate

48. As regards contacts with the outside world, the issues raised by the CPT in its report on the 2006 visit²³ did not receive a response. **It trusts that a response will be forthcoming.**

The CPT wishes to highlight its concerns, once again, regarding the application of the system of home leave in Idrizovo Prison. In the absence of other aspects of 'rehabilitation and resettlement', home leave continued to be the main focus of the aspirations of prisoners. Yet its application was still vehemently and almost universally denounced by the prisoners with whom the delegation met. Prisoners complained that the allocation of home leave was decided upon in an arbitrary and corrupt manner, and repeated the allegations of payments for home leave referred to in the report on the 2006 visit.

It is essential that home leave be administered in a transparent and fair manner, in accordance with the legal regulations. **The CPT reiterates its recommendation that the rules governing home leave be clearly explained to all prisoners and that they be enumerated, in detail, in the House Rules. Moreover, a full investigation into the allegations of corruption pertaining to the granting of home leave should be instituted.**

49. The delegation found that the situation in Idrizovo Prison as regards discipline has not evolved and that none of the recommendations made in the report on the 2006 visit have been addressed²⁴. For instance, persons placed in solitary confinement were still not being offered a minimum of one hour of outdoor exercise every day.

Further, as concerns the disciplinary procedure, prisoners continued to be placed in solitary confinement on the authorisation of the shift commander without any proper proceedings taking place. Moreover, the criteria for placement of prisoners in the segregation wing was not clear, and it appeared that, in certain cases, such placement was used as an alternative disciplinary sanction.

²² Of the 101 drugs tests performed on prisoners taking methadone in the five months preceding the delegation's visit, 49 showed that prisoners were supplementing the methadone with other drugs.

²³ See CPT/Inf (2008) 5, paragraphs 92 to 97.

²⁴ See CPT/Inf (2008) 5, paragraphs 98 to 101.

The CPT calls upon the national authorities to ensure all prisoners in isolation are offered at least one hour of outdoor exercise every day. Further, it reiterates its recommendation that the national authorities guarantee a fair hearing, in accordance with the law, for all persons accused of disciplinary offences, and that the procedures be explained in clear language in the House Rules.

50. As was the case in 2006, prisoners at Idrizovo Prison expressed a total lack of confidence in the complaints procedures. The delegation heard numerous criticisms about the lack of access to the Director, and that complaints addressed to him never received a response; further, prisoners alleged that staff prevented the delivery of complaints and threatened them with recriminations if they made complaints. In this respect, a number of prisoners stated that prison staff warned them not to complain to the CPT's delegation, in the same way as they had allegedly been warned prior to the visit by a delegation of national parliamentarians earlier in the year.

The delegation had been informed that the Ombudsman had initiated a campaign to inform prisoners of their rights and had placed sealed boxes in each prison for prisoners to make complaints in confidence. This is potentially a positive development. However, none of the prisoners or staff at Idrizovo Prison, with whom the delegation spoke, were aware that such a box existed. Nor were inmates or staff aware of any such box at Skopje and Tetovo Prisons.

The CPT recommends that increased efforts be made to ensure that prisoners are fully aware of their rights and are able to exercise them (including the right to lodge complaints) in a way that offers appropriate guarantees of confidentiality, independence, impartiality and thoroughness.

51. In the past, the CPT has criticised the way in which prison supervisory bodies have carried out their statutory duties. It expressed the hope that with the adoption of the new Law on Execution of Sanctions, in January 2006, a more rigorous and independent system of inspections would be established. Regrettably, the guidelines laid down by the Committee concerning regular prison inspections by an independent body have not been followed. Further, as regards the remand section of Skopje Prison, it appeared that the judges continued to pay only perfunctory visits every Friday, accompanied closely by the Director and other prison staff. For example, in relation to the inmate who was chained to his bed for three weeks on an almost continual basis (see paragraph 28 above), the visiting judge apparently just entered the cell and made no comment.

The CPT reiterates its recommendation that the national authorities take the necessary steps to ensure that the various supervisory mechanisms operate in a professional, transparent and independent manner, taking due account of the norms outlined in previous reports (see CPT/Inf (2008) 5, paragraph 104).

52. In its report on the 2006 visit, the CPT recommended that the authorities draw up a comprehensive regulation that provides *inter alia* for the grounds on which in-cell video surveillance may be authorised, the procedure to be followed and the criteria to be used. No action has been taken to address the concerns raised by the Committee despite the fact that two cells in the remand section of Skopje Prison continue to be under video surveillance, allowing prison staff in the duty station to monitor the movement of the persons detained in these cells. In addition, the delegation noted that all the solitary confinement cells at Idrizovo Prison were under video surveillance. **The CPT recommends that the necessary steps are taken in the light of the remarks made in the 2006 visit report** (see CPT/Inf (2008) 5, paragraph 109).

53. In the context of the strategic plan for prisons referred to in paragraph 22 above, **the CPT considers that investing scarce resources in installing close-circuit television surveillance equipment should not be at the expense of tackling the basic problems highlighted above** (see paragraphs 35 to 41).

C. Concluding remarks

54. The CPT has already expressed its appreciation of the consultations held by its delegation, in the course of the visit, with Ministers and senior officials from the ministries concerned. However, although the relevant authorities declared their general commitment to enhance cooperation with the CPT, the Committee was concerned by the lack of concrete action to improve the situation of persons deprived of their liberty, in the light of the recommendations made in previous visit reports.

55. The CPT's reports have consistently highlighted that persons deprived of their liberty by law enforcement officials in "the former Yugoslav Republic of Macedonia" run a real risk of being ill-treated. The findings of the 2007 visit confirm this risk. That said, efforts have been made in recent years by the national authorities to reduce ill-treatment, in particular through increased training of police officers on human rights issues. However, the Committee considers that the Department for Internal Control of the Ministry of Interior still needs to demonstrate that it is capable of effectively investigating allegations of ill-treatment by law enforcement officials. In sum, the CPT is encouraged by the dialogue it is pursuing with the Minister of Interior and her colleagues, but urges that additional efforts be made to prevent ill-treatment by law enforcement officials and to combat impunity.

56. By contrast, the CPT considers that in respect of the Ministry of Justice and the prison administration, there has been a breakdown in cooperation with the Committee. It would appear that, despite repeated recommendations to take urgent steps towards rectifying the shortcomings identified by the Committee, the authorities have not afforded prison establishments the serious attention they merit. Not only are prisons under-resourced, under-staffed and in need of capital investment, there is also an absence of professional management, compounded by the politicised appointment of directors of prisons, and a lack of independent supervision.

In the report on the 2006 visit, the CPT identified a number of issues which required urgent remedial action. For instance, clear recommendations were put forward to address the misuse of means of restraint. Despite receiving a response that action had been taken to address this matter, the findings of the delegation in 2007 illustrate that inmates continue to be fixated, including with chains, for essentially punitive reasons and with no system of recording or supervision in place. Another example concerns the conditions of detention in several of the accommodation units in Idrizovo Prison, which the CPT stated could be described as inhuman and degrading. Immediate steps were required to tackle these glaring deficiencies; yet, sixteen months on, the CPT's delegation discovered that no improvements had been made. As to the allegations of ill-treatment by staff at Idrizovo and Skopje prisons contained in the report on the 2006 visit, no follow-up action was taken by the authorities. Similar patterns of allegations of ill-treatment have been received again in the course of the 2007 visit; the CPT trusts that, this time, the authorities will rigorously investigate the allegations. The organisation of the health-care services in prisons also remains precarious, raising serious concerns about both access to care, and the treatment provided, for persons deprived of their liberty; it also has adverse consequences for the prevention of ill-treatment.

57. The CPT acknowledges that the authorities have initiated a programme to build new prisons and to renovate existing ones, which is both a time-consuming and capital-intensive enterprise. However, the CPT considers it necessary to reiterate that the authorities have an ongoing duty of care for all people in prison, and that there are numerous measures which could and should be taken to improve the treatment and conditions of detention of prisoners, over and above renovating the prison estate.

Prisons are an integral part of the criminal justice system. If the necessary resources are not allocated towards their reform and proper functioning, then the investment in the police and in the judicial system to combat crime and guarantee the rule of law and protection of human rights will be undermined. At present, in a prison such as Idrizovo, organised crime gangs are able to continue their outside activities within the establishment with apparent impunity, quite possibly with the assistance of certain staff members. Rectifying this state of affairs requires action on all fronts, starting with a strategic plan for the recovery of the prison system and, in parallel, immediate steps to rectify the most glaring deficiencies highlighted in this report.

58. The CPT's mandate is to strengthen the protection of persons deprived of their liberty. The Committee's visits and subsequent visit reports represent the tools for initiating a dialogue with a State Party on matters which appear to the Committee to be of primary importance in preventing any form of torture or inhuman or degrading treatment or punishment. Consequently, it is essential for the national authorities to ensure that the responses provided in respect of a visit report address the issues raised in a concrete and comprehensive manner. It goes without saying that the information provided in the responses should also be accurate and reliable. Further, the Convention requires that decisive action be taken to improve the situation in the light of the Committee's recommendations. Regrettably, neither the responses received from, nor the action taken by, the Government of "the former Yugoslav Republic of Macedonia" to date can be considered to be acceptable.

The CPT trusts that vigorous steps will henceforth be taken by the Government of "the former Yugoslav Republic of Macedonia" to implement the recommendations made by the Committee.

APPENDIX

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

Cooperation

recommendations

- the contents of the report drawn up after a CPT visit to be brought to the attention of all the relevant authorities and staff, in an appropriate form. Further, translations of CPT reports in the relevant languages should be made widely available, and it would be desirable to make use of them in the training of senior management working with persons deprived of their liberty (paragraph 8).

requests for information

- on the investigation into the death of Imran Ibraimovski (paragraph 7);
- on whether a forensic autopsy has been carried out in respect of any of the seven deaths that occurred in Demir Kapija Special Institution for mentally disabled persons in January and February 2007 (paragraph 7);
- a response to the concerns raised in paragraph 37 of the report on the 2006 visit concerning forensic autopsies (paragraph 7).

Law enforcement agencies

Ill treatment

recommendations

- the national authorities to strenuously reiterate the message of zero tolerance of ill-treatment of detained persons and to reinforce it with a statement at the appropriate political level (paragraph 15);
- whenever persons brought before a prosecutor or judge allege ill-treatment by law enforcement officials, the prosecutor/judge to record the allegations in writing, to order immediately a forensic medical examination and to take the necessary steps to ensure that the allegations are properly investigated. Such a procedure 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 prosecutor/judge should adopt a proactive approach; for example, whenever there are other grounds to believe that a person brought before him/her could have been the victim of ill-treatment, a forensic medical examination should be requested. If necessary, guidelines should be issued by the appropriate national authorities (paragraph 16).

Safeguards against ill-treatment

recommendations

- immediate steps to be taken to ensure that all persons deprived of their liberty by law enforcement officials have an effective right to notify a close relative or third party of their choice of their situation, and to have access to a lawyer, in private, as from the very outset of their deprivation of liberty (paragraph 18);
- the national authorities to supplement the general legal provision concerning the “right to medical assistance” with specific instructions, in accordance with previous CPT recommendations (see CPT/Inf (2006) 36, paragraph 41) (paragraph 19).

Material conditions

recommendations

- the necessary measures to be taken to remedy the shortcomings in the material conditions in police stations, in the light of the remarks made in paragraph 20 and those contained in the 2006 visit report (see CPT/Inf (2008) 5, paragraph 24) (paragraph 20).

Prison establishments

Preliminary remarks

- recommendations

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

- the mission of prisons and the values to which prison staff will work;
 - the size of the prison estate and the range of the prison types that it will include;
 - the range of activities that will be provided and the amount of access that persons detained, including those on remand, will have to them;
 - the human resource requirement needed to run the prisons professionally, giving competence profiles for the key roles;
 - financial projections over a 5 to 10 year period, showing how the planned provision will be met within the resource levels available
- (paragraph 22);

- information to be provided on the action taken by the national authorities to address the shortcomings at the Educational-Correctional Institution identified in the report on the 2006 visit (see CPT/Inf (2008) 5, paragraphs 111 to 127) (paragraph 24).

comments

- the CPT trusts that all bye-laws and bodies envisaged by the Law on Execution of Sanctions will be adopted and/or established without further delay (paragraph 23).

requests for information

- a copy of the new House Rules for Idrizovo and Skopje Prisons (paragraph 23);
- the proposals for suitable alternative premises for the Educational-Correctional Institution, and the timelines for their implementation (paragraph 24).

Ill-treatment

recommendations

- the Minister of Justice to deliver a clear message to all custodial staff that ill-treatment of prisoners is not acceptable and will be the subject of severe sanctions (paragraph 26);
- the national authorities to ensure that chains are no longer used as a means of restraint in prisons in “the former Yugoslav Republic of Macedonia” (paragraph 29);
- an instruction to be drawn up on the use of means of mechanical restraint, taking into account the remarks made in paragraph 29 (paragraph 29);
- clear guidelines to be issued to all prisons to ensure appropriate mental health assessment and care for persons at risk of self-harm or suicide. Such guidelines should, especially in the case of juveniles and children, make provision for educational and other activities, as being locked in a cramped cell throughout the day is not conducive to such persons' welfare (paragraph 29);
- the necessary steps to be taken at Idrizovo Prison to improve the quality of managerial supervision and decision-taking, and to make the prison safe for both prisoners and staff through, inter alia, increasing the number of staff present in the accommodation areas (paragraph 30);
- a comprehensive plan to be drawn up to tackle inter-prisoner violence in all prison establishments. Such a plan should address the specific challenges within each establishment, and should make reference to:
 - appropriate staffing levels on all units throughout the day and night;
 - training for staff on prevention and management of incidents of inter-prisoner violence;
 - assessment, classification and cell allocation of prisoners;
 - detection and follow-up of cases of inter-prisoner violence;
 - the development of a meaningful regime(paragraph 31).

requests for information

- on the concrete measures taken to eradicate ill-treatment of prisoners by prison staff, including through improved management and supervisory mechanisms (paragraph 26);
- on the investigation into the alleged participation of the head of security at Idrizovo Prison in the ill-treatment of prisoners (paragraph 26);
- a copy of the guidelines concerning mental health assessment and care for persons at risk of self-harm or suicide in prison (paragraph 29).

Staffing issues

recommendations

- staffing levels and staff deployment to be reviewed in all prisons and, subsequently, the Committee to be informed about the concrete action being taken (paragraph 32);
- an investigation to be instituted into the allegations of staff involvement in the trafficking of illegal goods at Idrizovo Prison (paragraph 33);
- a professional managerial career path to be developed within the prison system, based exclusively upon the competences required for managing an evolving prison system. (paragraph 34).

Conditions of detention

recommendations

- a concerted effort to be made to reduce the occupancy rate in the remand section of Skopje Prison. As a minimum, every inmate should be provided with his/her own bed. Moreover, the sanitary facilities in the prison should be urgently renovated. At the same time, it is essential that a rolling programme of renovation of the cells and rooms be instituted, including new mattresses and bedding, and that prisoners be provided with appropriate quantities of hygiene products. Further, the call bells should be repaired. (paragraph 35);
- the necessary steps to be taken to improve the conditions of detention in the remand section of Tetovo Prison, in the light of the remarks made in paragraph 36 (paragraph 36);
- the national authorities to take:
 - immediate steps to render Idrizovo Prison safe and hygienic through inter alia removing the open sewers, repairing the sanitary facilities, providing sufficient detergent and hygienic products, instituting a preventive health care programme that emphasises cleanliness, replacing decrepit mattresses, furnishing clean bedding, eradicating the infestation of cockroaches and other vermin, replacing broken window panes and repairing the floors and roofs, and ensuring adequate heating and artificial lighting in all living areas;

- immediate steps to devise a phased programme (with clear timelines) to reduce the occupancy levels in the multi-occupancy dormitories to ensure a minimum of 4 m² per prisoner (paragraph 38);
- the necessary steps to be taken, without any further delay, to institute a regime permitting all remand prisoners to be offered a minimum of one hour of outdoor exercise every day (paragraph 40);
- the necessary measures to be taken to improve the quality and quantity of food provided to prisoners at Idrizovo Prison (paragraph 41).

comments

- the CPT trusts that it will now receive a considered response concerning the regime in Idrizovo and Skopje prisons, in the light of the remarks and recommendations in its 2006 visit report (see CPT/Inf (2008) 5, paragraphs 69 to 73) (paragraph 39).

requests for information

- a list of the concrete measures taken by the national authorities, further to the recommendations contained in paragraph 38, for each of the accommodation blocks in Idrizovo Prison (paragraph 38).

Health-care services

recommendation

- the national authorities to urgently review the general state of the health-care services in prison establishments, starting with Idrizovo and Skopje prisons, so as to meet the "equivalence of care" principle. Improving health-care in prison will necessitate *inter alia* the hiring of additional qualified medical staff (paragraph 42);
- the national authorities to review the procedures for transferring prisoners suffering from psychiatric disorders to an appropriate institution for assessment (paragraph 43);
- the national authorities to ensure that every newly-arrived prisoner is properly interviewed and physically examined by a medical doctor as soon as possible after his admission. Save for exceptional circumstances, that interview should be carried out on the day of admission, especially insofar as remand establishments are concerned. Such medical screening on admission could also be performed by a fully qualified nurse reporting to a doctor. The law should clearly reflect this requirement (paragraph 44);
- the national authorities to put in place a clear procedure for ensuring that all allegations and other evidence of ill-treatment by the police of persons subsequently remanded in custody are properly recorded and brought to the attention of the Public Prosecutor's Office (see CPT/Inf (2008) 5, paragraph 46) (paragraph 44);

- steps to be taken to ensure that medical confidentiality is fully guaranteed in all prison establishments. This implies that all medical examinations of prisoners should be conducted out of the hearing and - unless the doctor concerned requests otherwise in a particular case - out of the sight of prison officers (paragraph 45);
- additional steps to be taken to ensure that the confidentiality of medical data is respected (paragraph 45);
- immediate steps to be taken to prevent trafficking in drugs, including through security checks on staff and visitors entering Idrizovo Prison (paragraph 46);
- a comprehensive strategy to be drawn up for the provision of assistance to all prisoners with drug-related problems, as one aspect of a national drugs strategy (paragraph 46).

comments

- it would be highly undesirable for any new measures adopted vis-à-vis drug trafficking to unduly restrict prisoners' contacts with the outside world or to limit the regime activities or association possibilities offered to them (paragraph 46).

requests for information

- on the purpose of the methadone substitution programme at Idrizovo Prison, in the light of the remarks made in paragraph 47 (paragraph 47).

Other issues related to the CPT's mandate

recommendations

- the rules governing home leave to be clearly explained to all prisoners at Idrizovo Prison and enumerated, in detail, in the House Rules (paragraph 48);
- a full investigation to be instituted into the allegations of corruption at Idrizovo Prison pertaining to the granting of home leave (paragraph 48);
- the national authorities to ensure that all prisoners in isolation are offered at least one hour of outdoor exercise every day (paragraph 49);
- the national authorities to guarantee that a fair hearing, in accordance with the law, is instituted for all persons accused of disciplinary offences, and the procedures to be explained in clear language in the House Rules (paragraph 49);
- increased efforts to be made to ensure that prisoners are fully aware of their rights and are able to exercise them (including the right to lodge complaints) in a way that offers appropriate guarantees of confidentiality, independence, impartiality and thoroughness (paragraph 50);

- the necessary steps to be taken to ensure that the various supervisory mechanisms operate in a professional, transparent and independent manner, taking due account of the norms outlined in previous reports (see CPT/Inf (2008) 5, paragraph 104) (paragraph 51);
- the necessary steps to be taken to draw up a comprehensive regulation on in-cell video surveillance, in the light of the remarks made in the 2006 visit report (see CPT/Inf (2008) 5, paragraph 109) (paragraph 52).

comments

- the CPT trusts that a response to the issues concerning contacts with the outside world raised in the report on the 2006 visit (CPT/Inf (2008) 5, paragraphs 92 to 97) will be forthcoming (paragraph 48);
- investing scarce resources in installing close-circuit television surveillance equipment should not be at the expense of tackling the basic problems concerning material conditions highlighted in paragraphs 35 to 41 (paragraph 53).