



## **Response**

### **of the Government of Montenegro to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Montenegro**

**from 13 to 20 February 2013**

The Government of Montenegro has requested the publication of this response. The report of the CPT on its February 2013 visit to Montenegro is set out in document CPT/Inf (2014) 16.

Strasbourg, 22 May 2014

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## **Response of the Ministry of Interior**

### **❖ Item 12. (page 11)**

**Comment:** the Police Directorate acts in accordance with the Article 259, paragraphs 4 of the Criminal Code in the cases when the summoned citizen arrives to the police department with a legal representative i.e. allows their representative to be present during the statement giving process-, gathering information from the citizens.

**Additional Comment:** According to Paragraph 3 of the same Criminal Code, the Police is not allowed to gather information in a forceful manner or by the means of deception and extortion considering the integrity and dignity of the citizen, who also enjoys the right to refuse providing information which prevents the police from further detaining the individuals summoned for the information gathering purpose.

### **❖ Item 13. (page 11)**

**Comment:** According to the article 264 of the criminal code when an arrest occurs, the police promptly inform the attorney general. This norm will be more precisely defined after the alterations to the criminal code are finalized.

The formulation and signing of the agreement concerning the cooperation between the prosecutor's office and the ministry of interior/police directorate is planned. This will eliminate the issues related to the recording of time, as well as those concerning the time frame for the detention of the deprived person, until the prosecutor in charge of his hearing is informed.

### **❖ Item 17. (page 13)**

**Comment:** When taking on police duties and tasks, police officers comply with the standards of police conduct which primarily refer to the respecting of human rights, suppression of unlawful activities, and prevention of any illegal, degrading and unprofessional behavior. These are also the priorities during police officer training.

Through program trainings Montenegrin authorities continue to devote special attention to all types of abuse of the deprived persons and it stress that any form of abuse is illegal, unprofessional and it is punishable by the Criminal Code.

In order to ensure transparency and respect of the human rights of detained persons, Ministry of Interior and Police Directorate have signed an agreement on monitoring of the detained persons (individuals who are detained by the Prosecutor up to 48 hours) with NGO Civic Alliance. By this agreement the NGO activist have right to inspect and monitor the detention facilities, as well as access to documents and legal basis for the deprivation.

❖ **Item 18 (page 13)**

**Comment:** The Police Directorate continually is taking measures in accordance with legal powers in order to protect individuals who report any kind of abuse.

In the near future Ministry of Interior will obligate the Directorate for Internal control of the police to take the necessary measures to protect individuals who report any kind of abuse. During the reporting process the Council for the civic control of the police will act as their partner.

❖ **Item 20 (page 14)**

**Comment:** There is a court proceeding before the High Court in Podgorica against three police officers who are suspected to have physically abused X\*. following the appeal made to the high court, the Basic Court came to a liberating verdict for the police officers in question. The case has been forwarded to the High Court resulting in the suspension of the officers who will remain so until the closure of the case.

❖ **Item 21. (page 14)**

**Comment:** The implementation of the aforementioned recommendation has been ensured. During the government session on the 24th of May regulation of uniforms, insignia, titles and weapons published in the Official Gazette of Montenegro No. 33-13 have been adopted. According to the legislation in force officials of the police directorate have to wear insignia containing their name/ID numbers on the uniforms.

❖ **Item 23. (page 15)**

**Comment:** Police Directorate keeps the register of firearms or other objects seized during the criminal investigations, and dedicated store for keeping it, exists on local level - warehouses. The same instruction has been given to all organizational units regarding unlabelled and non-standard objects that were seized during the criminal investigations.

❖ **Item 25. (page 16)**

**Comment:** Persons deprived of their liberty has legal right on medical examination, including the doctor of their choice, from the very beginning of deprivation, according to the Code of Criminal Proceeding.

❖ **Item 26 (page 17)**

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\* In accordance with Article 11, paragraph 3, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, certain names have been deleted.

**Comment:** According to the Code of Criminal Proceedings and to the Constitution, deprived person is immediately being informed about the reasons of deprivation in his/her mother tongue or in language that he/she understands, as well as a third party.

All the organisational units in the forthcoming period will provide a reference to the exact timing of the notification of custody to a third party.

❖ **Item 29 (page 17)**

**Comment:** According to the Article 261, paragraph 4, Code of Criminal Proceedings in cases of deprivation of liberty, respectively, police may hear the detained person, in line with paragraph 5 of this Article, exceptionally with the approval of a very public prosecutor, the consent of a detained person and the presence of his/her lawyer. If the detained person did not ensure the lawyer, state prosecutor will appoint an ex officio lawyer according to the Lawyer Chamber list.

❖ **Item 31 (page 18)**

**Comment:** Information sheet that has been translated into several languages, containing protection measures against ill-treatment, therefore this recommendation is already being implemented.

❖ **Item 33 (page 19)**

**Comment:** The Rulebook on handling complaints against the Police Administration performance has been adopted in line with the Article 16 of the Law on Internal Affairs, concerning complaints submitted by a natural or legal person if considering that police officer during the performance of police duties violated any of his/her rights or inflicted damage. The Rule book clearly defined procedures for handling complaints submitted by citizens, which includes initiation of appropriate disciplinary procedures or criminal proceedings in the case of the establishment of disciplinary or criminal liability of a police officer. The Rulebook publishing is foreseen, as well as preparation of brochures that should educate citizens about their rights to submit the complaint, and about the procedure how to submit the complaint.

❖ **Item 34 (page 19, 20)**

**Comment:** Conditions of detention in a police cells are regulated by the Rule book that must be met by keeping persons deprived of their freedom, which is applied in practice.

**Response of the Prisons administration (ZIKS)**

Measure	Realized	Remark
39. Deliver to the CPT members documentation with detailed data on construction plans of prison for long sentences and additional building at the prison in Bijelo Polje;	The Government of Montenegro, i.e. the Ministry of Justice, the Ministry of Finance and the Ministry of Health negotiate with the Council of Europe Development Bank.	Documentation should contain data on capacities of new facilities and time foreseen for their opening
40. Deliver to the CPT members an updated information on the impact of undertaken measures in order to solve the problem of overcrowded prisons;	The Parliament of Montenegro adopted the Law on amnesty of persons sentenced for criminal offences prescribed by the laws of Montenegro and persons sentenced by foreign criminal verdict which is served in Montenegro (Gazette 39/13 as of 7 August 2013) and the Law on implementation of probation and community service sentence	
41. Inform the CPT members on results of investigation of the case of alleged abuse that took place on 27 September 2012 (Remand prison Podgorica);	Against the official of the Remand prison Podgorica a disciplinary procedure was conducted in which he was disciplinary sanctioned by financial penalty; a criminal charge was pressed against that same official;	Send a strong message to the security officials of the Penitentiary and Remand prison Podgorica that physical harassment and verbal abuse are not acceptable and that will be accordingly sanctioned. (43)
42. Inform the CPT members of the results of the investigation taken by the Police;	Police Directorate	This recommendation refers to the case when several persons from the Pavilion C declared to be victims of racketeering and threats of a group of prisoners from the Pavilion C and that their families were threatened. (42)
44. Reduce the cell capacity occupancy of 16/25 m2 so that every prisoner has minimum 4m2 of living space;	Considering that available capacities are practically overcrowded all the time, the authorities of the Institution for Execution of Criminal Sanctions (ZIKS) were not able to influence this recommendation until construction of new facilities would initiate, by which minimum space standards would be fulfilled. However, by the adoption of the Law on amnesty of persons sentenced for criminal offences prescribed by the laws of Montenegro and persons sentenced by foreign criminal verdict which is served in Montenegro (Gazette 39/13 as of	This recommendation supposes that a sanitary annex space is not seen as a part of living space.

	7 August 2013) and the Law on implementation of probation and community service sentence, the number of prisoners was significantly reduced.	
45. Make renovation of the Pavilion A in accordance to the published tender;	In the Pavilion A at ground floor, bathrooms and toilets were adapted in both wings. In the room 9, at ground floor to the left, two toilets and six shower cabins with lavatories were adapted. In the rooms 10 and 11, at ground floor to the right, three toilets, two shower cabins and one lavatory room were adapted.	Deadline is three months
47. Implement the prison doctor`s recommendation and transfer the prisoner to specialized institution where he would get better care;	This prisoner serves no longer the sentence in ZIKS. In accordance with the decision of the Ministry of Justice, he was released to probation.	This recommendation refers to the prisoner situated at ground floor of the Pavilion A in the Penitentiary Podgorica, whose left arm was amputated and whose lower part of the body is paralyzed.
49. Offer constructive and purposeful activities to all convicts in the closed part of the Penitentiary Podgorica;	Beside sport and cultural activities, convicts can be employed. Within this recommendation, we suggest possibility of convicts` presence at NGO workshops for rehab from psychoactive substances.	
49. Provide more opportunities for employment – in craftsmanship if possible	All the capacities in terms of convicts` employment are full. However, management of ZIKS tents to provide larger engagement of convicts in agricultural production. In cooperation with the Faculty of Economy, ZIKS works on Business plan which would consider possibilities and capacities of ZIKS, in order to start production for the Penitentiary needs, as well as for the market, which would engage larger number of convicts.	
50. Continue with energetic renovation of the Remand Prison Podgorica	Regarding room capacities, adaptation of the Remand Prison is completed. However, it is necessary to invest in boiler room, heating system and radiator network.	
50. Living space per capita should be 4 m2 minimum;	Measure realized. Since the beginning of adaptation and reconstruction works, accommodation capacities are	This recommendation supposes that a sanitary annex space is not seen as a part of living space.

	expanded by 60 to 70 places, so the measure is fully completed.	
50. Provide all detainees with products for maintaining their rooms;	All detainees are provided regularly with products for maintaining their rooms in accordance with ZIKS`s budget intended for this purpose. These products are distributed to all the organizational units after which these are equally distributed to detainees.	
51. Take all the necessary measures in order to provide detainees in this organizational unit with out-of-cell activities of purposeful nature;	According to the Rule book for closer procedure for executing detention, detainees are not allowed any out of cell activities, but they have access to the gym and room bicycles in their rooms, due to the lack of conditions.	Prohibition of such activities should be implemented as a result of individual assessment and should last short period of time.
53. Recommendation 51. should be applied to women in detention;	Female detainees, have access to room bikes, which can be moved to their rooms if necessary.	
53 Adapt specialized and recreational activities to needs and possibilities of detained women, so that they could have equal treatment as men.	Measure realized. Female detainees as well as male ones, according to the Law on Criminal Procedure, can be employed in the building of the Remand Prison in Podgorica and the Prison in Bijelo Polje, if they have an approval of court in charge and if it does not disrupt Criminal Procedure conduct. Regarding recreational activities female detainees have access to room bikes.	
54. Allow minors and young adults to personalize and decorate to a larger extent their section in the Pavilion F of the Penitentiary in Podgorica;	Measure realized	
55. Create an adequate program of education, sport, professional training and other purposeful activities for minors and young adults;	House rules for executing prison sentence provide that minors deprived from liberty can participate with other convicts in sport, culture, art and free activities by approval of head of organizational unit, under control of executor of treatment and security officer.	New programs should be harmonized with the existing ones.
56. Inform the CPT members on current status of the Special Prison Hospital project;	There are ongoing negotiations between the Ministry of Justice, the Ministry of Finance and the Ministry of Health with the CoE Development Bank.	
57. Extend the existing personal	Health service of ZIKS currently	The recommendation concretely



<p>in the Special Prison Hospital</p>	<p>disposes with:</p> <ul style="list-style-type: none"> <li>- 9 medical technicians (general practice)</li> <li>- 1 pharmaceutical technician</li> <li>- 1 accoucheur nurse</li> <li>- 1 laboratory</li> <li>- 2 dentist technicians</li> <li>- 1 roentgen technician (comes once a month)</li> <li>- 1 physiotherapist</li> <li>- 2 general practice doctors</li> <li>- 1 doctor of stomatology – specialist in oral surgery</li> <li>- 1 radiologist specialist (comes once a month)</li> <li>- 1 psychologist (comes twice a month)</li> <li>- 1 specialist of internal medicine (comes once a month)</li> </ul> <p>After the expiration of the public announcement for employment of servants for needs of ZIKS, this number will be completely satisfactory</p>	<p>refers to employment of one more doctor (specialist of internal medicine if possible) and a number of medical technicians. Also, a psychiatrist should be employed full time.</p>
<p>57. Terminate practice that medical technicians work 24 hours shifts.</p>	<p>After the expiration of the public announcement, by which the number of medical technicians in ZIKS will be extended, 24 hours shifts will end and will reduce to 12 hours. This working practice will commence in November this year.</p>	<p>A shift of 24 hours might affect professional standards and might jeopardize health of detainees and convicts.</p>
<p>58. Equip the Special Prison Hospital with modern and functional equipment in order to secure necessary health care to persons in ZIKS. Enable all detainees and convicts to access specialized medical research in accordance with their health needs.</p>	<p>The management of ZIKS sent donation requests for medical equipment and machines to several addresses of successful companies. The provision will also be planned also from budgetary means.</p>	<p>Medical equipment: roentgen, ultra/sound, locker for dental material, machines for physical therapy and rehabilitation and three electro/cardiograms is out of date and faulty.</p>
<p>59. Adopt guidelines which will be applied in ZIKS and which are related to fostered attention to the sexually transmitted diseases, necessary at examination of the newly arrived.</p>	<p>The measure is not fully realized. The health service of the ZIKS conducts regular medical examinations of newly arrived persons, while specific examinations of sexually transmitted diseases are done only upon request and with consent of the examined person. ZIKS will engage a specialist for</p>	<p>Fully engage in order to prevent spreading of sexually transmitted diseases.</p>

	skin and sexual diseases by contract.	
59(25). The records of injuries of persons examined upon arrival to ZIKS should be much more substantial; Prison doctor is obliged immediately after examination to fulfil documentation which will be inserted into health record file of a person examined. If a doctor finds injuries caused by an abuse, upon claims of the examined person, he is obliged to inform prosecutor regardless to the opinion of the examined person.	Measure realized. Prison doctor makes medical examination of newly arrived persons upon their arrival and on that occasion makes record of all injuries in health record file. Prison doctor puts in all forms of injuries in injury protocol and informs head of organizational unit. Head of the Prison informs prosecutor in charge about that.	Record upon examination should contain: statement of a person examined, objective and complete medical examination and doctor`s conclusion.
60. The Ministry of Justice and the Ministry of Health should take necessary measures to ensure that ZIKS is adequately connected with public health system.	ZIKS has good cooperation with all public health institutions and with Clinical Center of Montenegro. New Law on health care will consider the health service of ZIKS to be a part of the public health network of Montenegro.	This way detainees and convicts would timely receive health care from public health care institution specialists.
62. All kinds of medical examination should be taken without presence of prison guards, except in cases when medical staff requires so;	Measure realized	
63. Establish clear policy on confidentiality of medical documentation in ZIKS	Measure realized, by written command of the Director of ZIKS, that only in special cases, medical documentation can be examined out of premises by authorized health service personal upon request of public institutions in charge (court, ministries...)	This recommendation aims at clearly defining that only medical staff can access and examine medical documentation of detainees and convicts;
65. Take all necessary measures to ensure that any prisoner assessed to be seriously mentally deranged is transferred to medical institution adequately equipped with properly trained staff.	A doctor-psychiatrist comes twice a week to the Penitentiary and in cooperation with the Penitentiary`s Health service,, takes care of all detainees and convicts. If he assesses that certain person can be seriously mentally deranged, in line with the Law on Health Care, he will send that person to an adequate institution with properly trained staff.	
66. Deliver confirmation that a transfer of a prisoner which is ordered an obligatory psychiatric	Measure realized. The management of ZIKS and the Police Department made a	

treatment is completed;	record of transfer of Milan Zeković to the Republic of Serbia to continue to serve his sentence, IZ-N-7561/2 as of 21 October 2013	
69. Reconsider the number of staff in the Penitentiary Podgorica;	After the public announcement for employment in ZIKS is over, it is expected that the number of prison staff will be fully sufficient in all Sectors of the Penitentiary Podgorica.	Small number of the officials and many guards are young staff;
70. Terminate the practice of prison guards working 24 hours shifts.	Security service works 24 hours a day, but security officers' work is divided into four shifts of 12 hours.	
71. Expand the scope of currently available courses.	Measure realized. ZIKS officials attend various courses and training organized in: the Police Academy in Danilovgrad, Human Resources Management Authority and in the Education Center in ZIKS, as well as continuous training within the Twinning project ~Support to the reform of execution of criminal sanctions in Montenegro~ that which lasts for 10 months.	This way subjects such as conflict prevention and communication skills, as well as dealing with minors deprived of liberty, should be covered.
75. It is necessary to take measures in order to ensure that all principles and minimum protection are applied in cases of mechanical tying, including adoption of necessary regulations and stipulations on proper training of personal.	This measure is used only as the last one in cases when there is risk of self-injuring, record of which is regularly taken, which is defined by the Law and the Rule book on performing security service, arms and equipment of security officers in ZIKS.	
76. Make changes in the Law on executing criminal sanctions and the Law on Criminal Procedure in order to reduce period of solitary confinement penalty to 14 days.	To realize this measure it is necessary to change existing regulation, which is not in our power, but in communication with the Ministry of Justice we work on harmonization with the recommendation of the CPT. Preparation of the new Law on executing criminal sanctions is also ongoing.	If a person is sentenced on more than 14 days for a disciplinary offence, there should be made a several days break in between penalties.
77. Change the regulations regarding the right of prisoners to invite witnesses in their favor and to cross examine evidence presented against them.	In order to realize the measure, it is necessary to include in the House rules for executing prison sentence a regulation which will provide possibility that prisoners can invite witnesses in their favor and cross examine them during disciplinary procedure. All witnesses are invited to	This recommendation refers to disciplinary procedure.

	disciplinary procedure.	
79. Improve ventilation in disciplinary cells and install shelters from bad weather in the disciplinary department yard.	Measure is not realized. During next year it is planned to build eaves in the disciplinary department.	
82. Include at least one hour of visit a week for all categories of prisoners.	Convicts in ZIKS have the right on regular visits twice a month in duration of one hour, while special visit lasts half an hour. We will suggest to the Working group to accept this proposal.	In accordance with it harmonize positive legislation;
83. Renovate the third room for marital visits;	Measure realized	Pealed walls to paint and furniture in bad condition to change
84. Change the way visits are realized in the Remand Prison Podgorica by receiving family members in open conditions.	During next year realization of this measure will be possible through changes in the Rules book.	Video recorded visits and visits in actual premises of this organizational unit should be an exception.
85. Send a clear message to all the staff of ZIKS that all actions of intimidating detainees and convicts who want to make appeals to exterior bodies, will be punished;	The management of ZIKS issues written command which prohibits any intimidation and abuse of detainees and convicts. The command stresses that any form of torture will be severely sanctioned, and the management of ZIKS enabled written communication of detainees and convicts with external bodies, in accordance with legal regulations.	

**Response of the Ministry of Justice**



**CRNA GORA**  
**MINISTARSTVO PRAVDE**  
**Direktorat za izvršenje krivičnih sankcija**  
Broj: 02-539/14  
Podgorica, 22. 01. 2014. godine

**Ministarstvo vanjskih poslova i evropskih integracija**  
**Generalni direktorat za multilateralne poslove i regionalnu saradnju**

**PODGORICA**

Veza: 07/4-10/5-17

Predmet: Izvještaj Evropskog Komiteta za prevenciju torture i nehumanog ili degradirajućeg tretiranja ili kažnjavanja o Crnoj Gori

Government of Montenegro adopted on June, 27<sup>th</sup> 2013 the Action Plan for negotiating Chapter 23 (Judiciary and Fundamental Rights ) and 24 (Justice, Freedom and Security). The Action Plan for Chapter 23, identifies the priorities in the area of infrastructure development in the prison sector, including the following activities:

- Construction of a prison in Bijelo Polje, with a capacity of 150 seats. The construction of such facility will contribute to the improvement of the prison system, especially in the north region of Montenegro, reducing congestion and improving the living and working conditions of persons serving sentences, as well as improving the treatment of these persons, by constructing modern workshops, sports facilities, libraries etc. Approximate estimate of the construction costs of such facility amounts to €5,950,000. Beginning of the first phase of construction is being planned for the first quarter of 2015. An intensive dialogue with the Council of Europe Development Bank has been in progress, in order to find a financial mechanism for the construction of this facility. The first technical mission of experts of the Council of Europe Development Bank in Montenegro was held from 24-26 September 2012. Estimated costs of this investment is of great importance for Montenegro, in order to access appropriate actions to multi-year budgeting and financial feasibility.
- Construction of the pavilion A in a correctional facility for long sentences at the Institute for execution of criminal sanctions Spuž. By the Action Plan, the beginning of construction is being planned for 2014, if the funds were approved from the Capital Budget in the amount of €695.000. The construction of such facility will contribute to the improvement of the prison system, by improving conditions for the accommodation of prisoners.

40. The Ministry of Justice is implementing a new policy in the prison system in Montenegro with EU assistance through the Project "Support to the reform of the prison system" in partnership with Germany and the Netherlands. The goal of the probation implementation program is broad application of alternative sanctions and measures under the auspices of the community, based on the assumption that the objectives of punishment may largely be achieved in conditions that are less restrictive than imprisonment. The establishment of the Probation Service in Montenegro at the Ministry of Justice shall represent a very successful way for better integration of persons who have committed a first offense, as well as persons committed minor offenses. Resocialization takes place outside the prison walls, and carried out by the probation officers who exercise control and supervision of suspended sentence, a suspended sentence with supervision, probation and sentence to community service.

Broad application of alternative sanctions will reduce the prison population and provide better conditions in prison. To this end, the Draft Law has been set out, on the execution of the suspended sentence and the sentence of community service, which is in accordance with international standards.

41. Against the security officer of the Remand Prison in Podgorica on this case was conducted disciplinary proceedings facing disciplinary action - a fine;  
- was filed criminal charges against the same officer

42. Processed cases are under the jurisdiction of the Police Directorate

44. Bearing in mind that accommodation capacities are almost constantly overloaded, the Board of the Institute for Execution of Criminal Sanctions has not been able to influence this recommendation, and it all until the construction of new pavilions or prisons would not begin, in which case the standards in terms of minimum square footage would be fulfilled. However, the adoption of the Law on the Execution of a suspended sentence and the sentence of community service, which is under the Government's proceedings, the number of prisoners who are staying in prisons will be substantially reduced, because the implementation of alternative sanctions for offenses of minor social danger will be strengthened. For the execution of a sentence of community service the Ministry of Justice has signed five agreements with the municipalities in which courts most imposing this sentence, in order to perform voluntary community service work in agricultural, humanitarian, ecological, cultural and other public institutions.

45. In pavilion "A" on the ground floor in both wings, the bathrooms and toilets were renovated. On the ground floor to the left, or room 9, 2 toilets and 6 showers with washbasins were renovated. On the ground floor to the right, or rooms 10 and 11, 3 toilets and 2 showers and 1 place with washbasins were renovated.

47. This inmate is not longer serving a sentence in the IECS. Pursuant to the decision of the Parole Board this person has been conditionally released from the remainder of his sentence.

49. In addition to sports and cultural activities, the prisoners can be engaged in work. As part of this recommendation, we shall mention the possibility of the presence of prisoners to NGO workshops for withdrawal of psychoactive substances.

All capacities, when it comes to work arrangement of prisoners, are completed. However, IECS Directorate seeks to provide better working arrangement for prisoners in agricultural production. IECS in cooperation with the Faculty of Economics has been working on a Business plan that will take into consideration the potential and capacity available to the Institute, in order to start producing for IECS needs and the needs of the market, thus a larger number of prisoners would be simultaneously engaged. It has been opened a chicken farm, cattle breeding, gardening, supplying raw materials for woodworking in a carpenter's workshop, and carrying out work in car service workshop.

50. When it comes to accommodation capacities, renovation of remand prison in Podgorica has been completed. However, it is necessary to change, i.e. to invest in the boiler-room, heating and radiator network.

Since the beginning of renovation and reconstruction activities on remand prison in Podgorica, accommodation capacities have been extended to 60-70 seats, and the recommendation is therefore completely fulfilled.

All detainees regularly receive funds for the maintenance of rooms in accordance with the budget of IECS intended for this purposes. The officers of the Work Sector shall allocate all these funds to all organizational units and afterwards it is evenly distributed to detainees.

51. Detainees have access to gymnasium (gym) and exercise bikes at the premises in which they reside, and the given recommendation has been prescribed in the Draft Law on Execution of Criminal Sanctions, which will be in accordance with international standards and the rights of detainees will be prescribed in detail in accordance with European standards .

53. Detainees - women, have access to exercise bikes which can be transferred to their rooms as required.

Detained women, as well as detainees, according to the Criminal Procedure Code, can be employed at the premises of remand prison in Podgorica and Bijelo Polje , if they have an approval of the competent court and if it does not harm the conduct of criminal proceedings .  
As for recreational activities detainees - women have access to exercise bikes.

54. The recommendation has been implemented and juvenile ward has been customized to their needs, decorated and furnished to act stimulating.

55. House Rules for execution of sentences of juvenile prison, it is prescribed that juveniles deprived of their liberty may participate along with other prisoners in certain sports , cultural events and leisure activities with the approval of the chief of the organizational unit under the treatment control of the implementer and security officer.

56. Government of Montenegro adopted on June, 27<sup>th</sup> 2013 the Action Plan for negotiating Chapter 23 (Judiciary and Fundamental Rights) and 24 (Justice, Freedom and Security). The Action Plan for Chapter 23, identifies the priorities in the area of infrastructure development in the prison sector, including construction activity of stationary health care prison unit – Spuž with a capacity of 40 seats. Approximate estimate of the costs of this investment amounts to € 2.700.000 and the construction is being planned for 2015. For the construction of this facility, Montenegro is needed necessary funds from the IPA (IPA II, programming 2014-2020). The construction of stationary health care prison unit in Spuž will improve the health care system and medical assistance, in accordance with EU standards and reduce the costs of medical treatment of prisoners in relation to the period before the establishment of this facility.

57. Health care service of the IECS currently has:

- 9 medical technicians ( general profile)
- 1 pharmacy technician
- 1 obstetrics nurse
- 2 lab technicians
- 2 dental technicians
- 1 X-Ray technician
- 1 physiotherapist
- 2 general practitioners
- 1 dentist - specialist in oral surgery
- 1 radiologist (coming once per week )
- 1 psychiatrist ( coming two times a week )
- 1 internal medicine specialist ( coming once a week)

Upon completion of the public service announcement for hiring officers for the purposes of the Institute, the staff at the health care center will be significantly enhanced and it will be at entirely satisfying level.

After the completion of the public service announcement, the number of medical technicians at the Institute for Execution of Criminal Sanctions will increase whereof, shift work for 24 hours will be terminated and limited to 12 hours. This type of engagement will commence by the end of February this year.

58. Board of the Institute for Execution of Criminal Sanctions sent requests for donation of medical equipment and devices to several addresses of successful companies. Procurement will be planned from the budgetary funds for the current year as well.

59. The recommendation is fully implemented.

Upon the admission of new persons health care service of IECS conducts regular medical check-ups, while specific tests for transmissible diseases are performed only at the request i.e. with the consent of the person being examined. IECS will contract-to-hire medical specialist for skin and venereal diseases.



The prison doctor performs a medical examination of newcomers immediately upon the admission and on this occasion every injury is properly conducted and recorded in the medical record.

The prison doctor enters in the violation protocol all forms of violations and immediately notifies the chief of organizational unit herein. The competent prosecutor is informed by prison head thereof.

60. Institute for Execution of Criminal Sanctions has good cooperation with all PH Institutions and Clinical Centre of Montenegro. The Ministry of Justice and the Ministry of Healthcare are taking all necessary measures in accordance with the legislation in order to ensure necessary care to prisoners in hospital conditions outside the prison infirmary if there cannot be provided an adequate care for the detainee.

New Law on Health Care will recognize the health care service of the Institute for Execution of Criminal Sanctions as part of a public health care network in Montenegro.

62. The recommendation is implemented in terms of confidentiality of medical consultation in accordance with the legislation, and also elaborated in the Draft of the new Law on Execution of Criminal Sanctions in the part of the health care of prisoners.

63. The recommendation is implemented, in a manner of a written order of the Director of the Institute for Execution of Criminal Sanctions that only rarely medical records can be reviewed outside the premises and authorized officers of health care service in cases of acting at the request of the competent state authorities (court, prosecutor, ministries ...).

65. At the Institute for Execution of Criminal Sanctions doctor – psychiatrist comes twice a week and in collaboration with health care service of IECS takes care of all detainees and prisoners. In case that he evaluates that a certain person can be seriously mentally deranged, in accordance with the Law on Health Care, that person will be sent to the adequate health care institution which has properly trained staff.

66. The recommendation has been implemented. Transfer of the said person has been executed in the Republic of Serbia whose citizen is as well. Board of the Institute for Execution of Criminal Sanctions and Police Directorate made a report on the delivery IZ- N – 7561 of 21.10.2013.

69. Upon completion of the public service announcement for hiring officers of the Institute for Execution of Criminal Sanctions, the number of prison staff is expected to be fully satisfying in all Sectors of the Correctional institution.

One of the components of the project - Support to the reform of the prison system is the training of security officers which lasts for a month, afterwards they take the test and receive a certificate if they achieve success, otherwise it is stated that these persons just went through the training. The training is conducted by experts from Germany.

70. The work of the security service is covered for 24 hours, but security officers have been divided into four shifts working 12 hours.

71. The recommendation has been implemented.

Officers of IECS are attending various courses and training that are organized: at the Police Academy in Danilovgrad, the Human Resources Management Authority and in the Centre for Education in the Institute for Execution of Criminal Sanctions, and continuous training within the Twinning project "Support of the system of reforms of execution of criminal sanctions in Montenegro", that has been lasting for 12 months, the project is planned to last for 18 months, as well as training of personnel dealing with juveniles deprived of their liberty, which is provided as part of the project implemented by UNICEF.

75. This measure is used only as a last resort, in cases where there is a danger of self-harm risk, properly keeping records thereof, which is prescribed by the present Law on Execution of Criminal Sanctions and the Regulations on the security service, weapons and equipment of security officers in the Institute for Execution of Criminal Sanctions.

The new Draft of the Law on Execution of Criminal Sanctions, provided the specified recommendations of the CPT with principles and international standards in the area of application of coercive measures against the prisoners.

76. The relevant provisions of the present Law on Execution of Criminal Sanctions are amendments in the new Draft of the Law on Execution of Criminal Sanctions, which is under construction, in order to reduce the maximum period of solitary confinement punishments for disciplinary offenses to 14 days, as well as if a prisoner is sentenced to solitary confinement in more than 14 days due to two or more disciplinary offenses, there should be a break of several days between the penalties of stay in solitary confinement for 14 days.

77. The Draft of the new Law on Execution of Criminal Sanctions prescribes the above mentioned recommendation in part related to disciplinary proceedings taken towards the prisoner and his or her rights in the process. All witnesses are called to disciplinary proceedings.

79. The measure has not been implemented

Over the next year, the construction of a canopy in the disciplinary department is being planned and in accordance with budgetary funds and the implementation of these recommendations.

82. Prisoners at the Institute for Execution of Criminal Sanctions are entitled to regular visits two times a month and it lasts 1 hour, while emergency visit lasts 30 minutes. The Draft of the new Law on Execution of Criminal Sanctions prescribes the above mentioned recommendation in part related to the prisoner visits.

83. The recommendation is implemented in a manner that three rooms are renovated - painted and equipped with adequate furniture.

84. During this year, through amendments to the Regulations on detailed manner of execution of custody, the implementation of this measure will be provided.

85. Board of IECS issued a written order which prohibited any intimidation and abuse of detainees and prisoners. It was pointed out that any form of torture will be strictly punished and the Board of IECS enables the correspondence of prisoners and detainees with external bodies, in accordance with the legislation.

S poštovanjem,

**GENERALNI DIREKTOR**  
**Slavica Rabrenović**

## Response of the Ombudsman

Montenegro  
Protector of Human Rights and Freedoms  
Ombudsman

Cabinet of the Protector: 020 241 642  
Advisors: 020 225 395  
Central: 020 225 395  
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Email: [ombudsman@t-com.me](mailto:ombudsman@t-com.me)  
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Number: 03-590/13-1  
Podgorica, 30. December 2013.

### MINISTRY OF FOREIGN AFFAIRS AND EUROPEAN INTEGRATIONS - General Directorate for multilateral affairs and regional cooperation-

#### PODGORICA

Reference: letter, your reference: 07/04-10/5-17 of 18. July 2013.

During the discussion between the experts of the Committee for Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) and Ombudsman from Montenegro, held in February 2013, it obviously came to a misunderstanding because in the draft CPT Report we were submitted for review there are some information that are not in compliance with the actual status. We kindly ask you to deliver our suggestion for correction of the data to the CPT.

#### Chapter I.

F. National Preventive Mechanism, paragraph 9.

I. the first paragraph, second sentence says: “after establishing the Expert Advisory Body (anticipated in the above mentioned Law as the body assisting Ombudsman in implementing activities such as the NPM), the Deputy Ombudsman was appointed for prevention of torture, and two legal advisors from the office of Ombudsman were also appointed, in order to carry out the tasks and implement activities of the NPM”.

However, the actual status is as follows: - Ombudsman institute employed two officers, one (1) of which is engaged in NPM jobs and the other one to work on the complaints in the area of protection against torture.

#### Chapter I.

F. National preventive mechanism, paragraph 10.

The first sentence says: “In the beginning of their visit to Montenegro, the CPT delegation exchanged their opinions with Ombudsman and its Deputy regarding the prevention of torture. On this occasion, the delegation was notified that the Ombudsman office established a special sector in order to deal with the NPM tasks and those three additional advisors are employed in the same sector (total of five).”

However, the actual condition is that during their visit, the delegation was notified that the office of Ombudsman set up a special “group of jobs”- the sector of “National preventive mechanism, protection against torture and the right to trial within a reasonable period of time”.

For this group of jobs, the total of 5 (five) advisory positions were systematized, 2 (two) of which for the NPM, 2(two) for the work following the complaints on protection against torture and one advisory position for protecting the right to trial within a reasonable period of time. Currently, the following are employed: 1(one) advisor for the NPM jobs, 1 (one) advisor for the work following the complaints on protection against torture and 1(one) for the work following the complaints for protecting the rights to trial within a reasonable time.

The Action Plan of Montenegro, Chapter 23, stipulates that another advisor to the Ombudsman is to be employed in 2014. for executing the NPM jobs. Therefore, the NPM jobs shall be executed by total of two advisors and 1 Deputy Ombudsman who, in addition to Ombudsman, shall also be responsible for NPM operation.

II. In relation to the information about budgetary measures referred to in second paragraph of the same paragraph 10, requested by CPT, we submit the following information:

- Funds intended for the NPM for 2013 and 2014 are planned within the unique budget of the Protector of Human Rights and Freedoms of Montenegro

Out of the total funds approved by the Budget Law, the Plan of the Protector of Human Rights and Freedoms for 2013 allocated 70.000 €(salaries and funds for activities) for the NPM needs.

Out of the total funds approved by the Budget Law, the Plan of the Protector of Human Rights and Freedoms for 2014 allocated 95.000 €(salaries and funds for activities) for the NPM needs.

Sincerely yours,

PROTECTOR OF HUMAN RIGHTS AND FREEDOMS  
OF MONTENEGRO

Sucko Bakovic (signed)

Stamp: Republic of Montenegro, Podgorica, Protector of Human Rights and Freedoms

### Response of the Ministry of Health

**- steps to be taken at the forensic psychiatric unit of Dobrota Psychiatric Hospital (FPU) to remedy the deficiencies referred to in paragraph 91, in order to create a more personalised and therapeutic environment (paragraph 91);**

In meanwhile have been implemented the activities in order to create "therapeutic" environment. The walls of the hall and living room are decorated with paintings and works of the patients. In order to personalize environment for 2014, it is planned the supply of individual lockers for personal belongings of patients. The presence of the gate with metal bars at the entrances of room will be kept in this year until the increased number of trained personnel would guarantee the safety of employees and patients.

**- plans to build a separate forensic psychiatric institution within the perimeter of the Spuž Prison Complex to be accorded a high priority (paragraph 92).**

It has been planned the building of Forensic psychiatric institution near to ZIKS- Podgorica, under jurisdiction of Ministry of Justice and Ministry of Health committed that after building of institution is finished to provide and fund needful medical staff who will work there.

**- the Montenegrin authorities to increase the number of patients in the FPU taking part in therapeutic and rehabilitative activities adapted to their needs and to offer a wider range of such activities. This will necessitate a considerable reinforcement in the number of staff qualified to provide such activities (paragraph 97)**

After the last visit of CPT, regardless almost the same number of employed qualified staff and during the visit, larger number of patients in FPO is involved in existing therapeutic and rehabilitation activities. Meanwhile, through new Rulebook on internal organization and job classification is planned larger number of qualified staff for these activities, and recruitment of this staff will create possibilities for a wider range of activities in comparison with existing, as involvement of larger number of patients.

**- the CPT trusts that increasing the nursing presence in the FPU will enable the management of Dobrota Psychiatric Hospital to put an end to the practice of employing security staff inside the FPU (paragraph 100).**

The new Rulebook on internal organization and job classification for Special hospital in general, increased the number of employees, and for FPO department is planned 15 nurses/ technicians for shift work. The draft of Rulebook has been approved by Ministry of Health and it will start to apply in the first quarter of 2014.

**- steps to be taken at Dobrota Psychiatric Hospital to ensure that a restrained patient is not exposed to other patients, unless he/she explicitly expresses a wish to remain in the company of a certain fellow patient (paragraph 102).**

Existing premises for isolation that is under direct supervision of staff had never before, or during the CPT visit was not opened and "exposed to the other patients" at a time when the patient is in that room. Meanwhile, after CPT visit, the second room, located across ambulance for staff, is turned into alternative room for isolation, used according to need and serves as another room for isolation when the first one is occupied. The room has single bed. In case, that this room is occupied, one medical technician during time of isolation is in front of room in order to implement supervision and dignity of patient.

**- the Montenegrin authorities to take steps to ensure that patients subject to a compulsory psychiatric treatment order have the effective right to be heard in person by the judge concerned when the need to continue the compulsory treatment is reviewed (paragraph 105) -**

Implementation of this measure is the responsibility of the Ministry of Justice.

**- the Montenegrin authorities to take the necessary steps to review the relevant legislation so as to reflect the principle of a patient's free and informed consent to treatment, in the light of the remarks in paragraph 106 (paragraph 106)**

Law on protection of rights mentally ill persons prescribed the right on informed consent to the treatment of mentally ill, unless in case when ill persons could threaten seriously and directly its health and life, respectively the health and lives of other.

The regulations on imposition of compulsory psychiatric treatment of the criminal offender are not under jurisdiction of Ministry of Health.

**- steps to be taken to ensure that visits to Dobrota Psychiatric Hospital (and, as appropriate, to other psychiatric establishments) are carried out, on a regular basis, by a body which is independent of the health authorities. This body should be authorised, *inter alia*, to talk privately with patients, receive directly any complaints which they might have and make any necessary recommendations (paragraph 107)**

Ministry of Health and Special Hospital for Psychiatry Kotor support implementation of these recommendations and in particular will advocate for its implementation, allowing to all benevolent subjects, especially humanitarian agencies and NGOs to visit psychiatric hospital, to receive any complaints from patients. And recommendations how to fulfil them.

**- the Montenegrin authorities to persevere in their efforts to enhance the programme of educational, occupational and recreational activities for residents at the Komanski Most Institution. This will, in the first place, require more staff qualified to provide such activities (e.g. defectologists, occupational therapists, physiotherapists, etc.) (paragraph 121)**

Ministry of Health could not influence on increase of qualified staff for the improvement of programs for educational, professional and recreative activities for patients of Komanski institution, but had provided engagement of medical staff.

**- plans to build a separate forensic psychiatric institution within the perimeter of the Spuž Prison Complex to be accorded a high priority (paragraph 92).**

It has been planned the building of Forensic psychiatric institution near to ZIKS Podgorica, under jurisdiction of Ministry of Justice and Ministry of Health committed that after the building of institution is finished to provide and fund needful medical staff who will work there.

**- confirmation (with an indication of the legal basis) that in the context of the review of compulsory treatment, the patient is entitled to ask for an independent forensic assessment (paragraph 105).**

The Law on patients' rights, "Official Gazette of Montenegro 40/10" Article 25 defines the patients' right to a second professional opinion.

**- the CPT trusts that increasing the nursing presence in the FPU will enable the management of Dobrota Psychiatric Hospital to put an end to the practice of employing security staff inside the FPU (paragraph 100).**

The significant increase in the number of medical personnel is obtained through new Rulebook on internal organization and job classification for the Special hospital that will result in no need for employment of security guard inside the FPO, but it does not automatically mean complete elimination of the previous practices, with regard to the fact that the newly recruited personnel must acquire additional knowledge through the practice and special trainings in order to work in such specific department.

**- the time at which a restraint measure ended was sometimes not indicated in the central register at the FPU (paragraph 101).**

Since the last CPT visit, this lack is eliminated and regularly in the central registry is recorded the time when security measure ends.

**- the members of the Council for the Protection of Mentally Ill Persons at Dobrota Psychiatric Hospital are still appointed by the Executive Board of the Hospital upon the Director's proposal and therefore cannot be considered as truly independent (paragraph 108).**

By amending the current Statute of hospital, which is ongoing, it will be legally regulated the manner of nomination of members of the Council for the Protection of the Rights of Mentally Ill Persons in Special Psychiatric Hospital.



## **Response of the Ministry of Social Affairs**

### **Social protection institutions**

Preliminary remarks

#### **Requests for information**

1. The latest information regarding the plan to establish a community - based on „group homes“ for more able residents of „Komanski most“

Elaboration of the Master Plan on Transformation of „Komanski most“ is in progress and this document intends to support the development of different services on the local level, which should lead to autonomous or independent life of some of the current and potential future users of the accommodation of this institution.

Additionally, in the first quarter of 2014, it is planned to adopt a bylaw act that will set standards in the field of services intended for supported housing for persons with disabilities, according to which these services will be developed.

Also, by the end of 2014 will be adopted a number of other acts which will fully define this area, particularly in the part related to the standards for obtaining licenses for service providers in the field of social and child protection.

Until that time, as at the moment, a large number of support services designed for persons with disabilities and children with disabilities, operates from funds that the state provides to NGOs through public works of the Employment Agency of Montenegro, from the allocation of revenues for gambling, and also through project „Reform of the social and child protection system“, through components intended for the development of local support services to different vulnerable groups of the population.

Living conditions

#### **Comments**

2 Most of the resident's rooms in pavilions A and B still have no decoration (paragraph 114)

At the time of the CPT's visit, in some rooms in the pavilion „A“ and „B“ were not posted all images from the legacy of an academic painter, who donated a total of 240 art works. In the interim, 80 new paintings have been set, and, in addition, the rooms are enriched with posters that residents themselves wanted to have. The Amendments of the Regulation on internal organization and job classification of PI „Komanski most“ systematized the new position of labor-occupational therapists with a university degree - art academy, whose job description, among other obligations, provides the interior designing for a more comfortable stay of users.

Staff and care for the residents

### Recommendations

3 That the Montenegrin authorities revise staff situation in „Komanski most“, in the light of the remarks set out in paragraph 118. In particular, steps should be taken to:

- Significantly increase the number of nurses and caregivers;
- Fill the vacancy of GP without delay (preferably on a full time or even part-time);
- Ensure that there are regular consultations with ophthalmologist (Paragraph 119);

Since the last visit of the CPT, a general practitioner comes to the Institute every day for 2-3 hours as needed. Head nurse with faculty education, a nurse with high school degree, a medical technician with a high school diploma, as well as a physiotherapist with a faculty degree and two caregivers have been employed, so that the total number of nurses/medical technicians is fourteen, plus a head nurse with a faculty degree. Also, an urologist is involved as an external associate, which complements a team of consultant doctors of various specialties, who come to regular visits to the institution.

For two users, the examination is done by ophthalmologist at the Clinical Center in Podgorica, and all other users will be directed to this and other specialist examinations, in line with recognized and planned activities in the area of health care, which are scheduled by individual care plans for each person who is placed in the Public Institution „Komanski most“.

4 That the Montenegrin authorities persist in their efforts to improve the program of educational, professional and recreational activities for residents of institution „Komanski most“. This will, in the first place, require more qualified personnel to enable them to provide these activities (e.g., speech therapists, occupational therapists, physical therapists, etc.). (Paragraph 121)

In relation to this recommendation, it is important to point out that, in this direction, the labor-occupational therapist (academic painter), who is being educated in art-therapy, has been employed to work with users.

The users are included in ten occupational groups, with whom work: the special education teacher, the educator, the labor-occupational therapist, psychologist and social worker; three working groups with whom work: labor-occupational therapists; two sociotherapeutic groups with whom work: a social worker, psychologist and special education teacher.

In particular, we note that regular activities of the Institute are: going to the city, visits to cultural, historical, sporting and recreational events. Users go on one-day trips several times a year, they are provided with the week-long stay at the seaside resort, etc. It is noteworthy that in 2013, the users of the Institute participated in the Special Olympics in Sarajevo (won gold in swimming and two fourth places), and were engaged in the promotion of the film in which they enacted, which is taken in order to promote a positive attitude towards this category of persons in Montenegro. The film won several film awards in Montenegro and abroad.

### Requests for information

5 Confirmation that the institution „Komanski most“ now receives regular visits by orthopedic surgeons (paragraph 119);

PI Institute „Komanski most“ has engaged an orthopedist as an external associate, who conducts regular visits to users in order to improve health care in the areas:

- prevention of the occurrence of deformities;
- mitigation of the effects of existing deformities (acquisition of orthopedic devices: special orthopedic shoes with appropriate orthopedic inserts made by measure, thoracolumbar corset, peroneal aids, walkers, etc.).

6 Number of consultations they had with the dentist during last three months, and the exact nature of the treatment that was provided to residents of „Komanski most“ (e.g. extraction, fillings, dentures, etc.) (Paragraph 119);

Data from the medical records of residents, for the reporting period were as follows:

- fluoridation by washing with low concentrated solutions of fluoride -12 users;
- brushing with high concentrate fluoride toothpastes - 10 users;
- fissure sealing - 2 users;
- scaling and rinsing periodontal pockets - one user;
- thermocauterization of gingival polyp -1 user;
- treating of aphthous stomatitis -1 user;
- provision of first-aid - 2 users;
- plaque removal and removal of soft deposits - 6 users;
- giving anaesthetics - 14 users;
- extraction of teeth - 10 users;
- complicated tooth extraction - 4 users;
- drainage - two users;
- healing of abscess - 2 users;
- control checks - 12 users;
- fills on a single surface - 2 users;
- fill on two surfaces - two users;
- indirect pumps covering - 2 users.

7 Confirmation that individual rehabilitation plans will be elaborated, in relation to paragraph 112 for each resident of institution „Komanski most“ (paragraph 122)

In the previous period, individual protection plans have been elaborated, under the new model, which has shown excellent results in practice. In the elaboration of these plans were engaged professional teams of the Institute, social work centers in charge, caregivers and users, where it was possible. These plans present a comprehensive form of protection of users and consist of the following areas: formal legal protection, belonging to a family, preservation of cognitive functions, socialization, self-care skills, safety and health care, with clearly defined outcomes, activities, responsible practitioners and deadlines.

Coersive measures

#### Requests for information

8 A copy of the protocol, when it is adopted, on the use of padded room in pavilion B in the institution „Komanski most“ (paragraph 123).

Attached.

## Measures of protection

### Recommendations

9 That the Montenegrin authorities take steps to ensure that:

- residents of social protection institutions have an effective right to initiate procedures to examine the legality of the court decisions on their placement, that they are fully informed on this right, and that in this context, have the right to an attorney and may be heard by a judge;
- the need to continue the placement is automatically and regularly reviewed by the court, or the residents themselves can ask for a request within a reasonable period of time to consider the need for placement by the competent judicial authorities (paragraph 125).

According to the Law on Social and Child Protection, the social work center is in charge, in the first instance, for the request for exercising of social and child protection rights, including the service - placement in an institution. This right is recognized based on the evidences and the individual service plan, which is drawn up by the authorized person of the social work center, in cooperation with the user, his family and other people important to the user. If the user, his family and other people important to the user, are not satisfied with the decision of the social work center shall have the right to appeal. On appeal against the decision of the social work center, in the second instance decides the Ministry of Labour and Social Welfare. Also, according to the Law on General Administrative Procedure, against the decision of the Ministry of Labour and Social Welfare, an arraignment to the Administrative Court of Montenegro may be filed.

Law on Social and Child Protection stipulates that the social and child protection, among other, is based on the principle of informing the user, which means that the user has the right to be informed on all relevant information to the determination of his social needs and rights, as well as how those needs can be met.

Accordingly, the social work center decides on the right to service - placement in an institution, and is also required to regularly review the placement of users of the institution. Placement in „Komanski most“ is provided to the person with disabilities, which has a moderate, serious or severe disorders in intellectual functioning, who can not be provided, or is not in his best interest, to stay in the family and he/she can not be provided with adequate service on support for community life or family placement or fostering.

### Comments

10 The appointment of the employees of the social work center as guardians of users is to be avoided as much as possible (paragraph 126);

In relation to this recommendation, during the development of individual plans for all users, has been provided the review of foster care, where it is warranted, or more precisely, where the guardianship authority has knowledge that a user is a member of the immediate or extended family, friends or acquaintances, who would be able to take care of him adequately.

11 Montenegrin authorities are invited to provide the existence of regular visits to social protection institutions by the independent authorities for social protection, which, among other, have the permission to interview residents, directly receive complaints and make any necessary recommendations (paragraph 128).

Ombudsman in Montenegro is a national preventive mechanism against torture and other forms of inhuman treatment or punishment, in accordance with the Optional Protocol to the UN Convention against Torture and Other Cruel or Degrading Treatment or Punishment. The obligations stipulated by this Protocol are regular and unannounced visits to facilities for the detention of persons with restricted freedom of movement (prisons, psychiatric institutions...). After the visits, reports are elaborated, submitted to the institutions or organizations. Reports include also recommendations for improvement of human rights of persons placed in these institutions. In these reports, special attention was paid to the state of realization of human rights and status of persons with disabilities and is being assessed whether there are appropriate conditions for placement.

In the previous period has been implemented the project „Monitoring Respect for Human Rights in Closed Institutions in Montenegro“, which is funded by the Delegation of European Union to Montenegro with 120,000 €. The assessment was focused on monitoring and improvement of human rights, with emphasis on the right to freedom from torture, inhuman and degrading treatment in social and child protection institutions "Komanski most" and "Ljubović". Based on the monitoring process, a report on human rights in these institutions has been presented, with recommendations aimed at improving the living conditions of the residents. After a year, the same monitoring team has prepared a final assessment on the fulfilment of the recommendations made in the report. The report showed that the rights of residents of institutions "Komanski most" improved significantly compared to the same period in 2011.

Also, the Committee on Human Rights and Freedoms of the Parliament of Montenegro, in its action, is specifically dedicated to the promotion and protection of rights of persons with disabilities, and in particular, the protection of rights of children with disabilities. The Committee, both in the normative part, and concrete, practical activities, contributes to improving the situation of persons with disabilities and respect for their rights. In addition to public meetings, the Committee has organized a series of site visits to determine the extent of the respect for human rights and freedoms of persons placed in institutions. During the reporting period has been organized the control hearing of the Minister of labour and social welfare, Mr. Predrag Bošković, on the Report on the state of human rights in institutions for mentally ill persons, made by Ombudsman. On this occasion has also been noted a significant improvement of the conditions of life and work at the Institute, and are given new recommendations, which the competent Ministry and institutions must meet until the following session of the Committee, held for this subject.

It is also important to note that, according to the new Law on Social and Child Protection, in Montenegro has been introduced the social inspection for the first time, which will begin to operate in the first quarter of 2014. Social and child protection inspector is independent in his work, within the authorisations prescribed by law and regulations adopted for the purpose of implementing the law and shall be personally responsible for his/her work. In exercising the control, the inspector shall be authorised to determine legality of work and fulfilment of standards and, in accordance with the law, shall: review general and individual acts of the public institution for social and child protection and another service provider; examine documentation of the public institution for social and child protection and another service provider; make direct insight into the exercise of rights and services, warn about detected irregularities and determine measures and deadlines for their elimination; require reports and data on the work of the public institution for social and child protection and another service provider; check fulfilment of the requirements for conducting the activities of the social and child protection; initiate proceedings to establish liability; consider complaints of legal and natural persons which refer to work and provision of the social and child protection services, etc. While carrying out the inspection control, in addition to the measures and actions prescribed by the Law on Inspection Control, the inspector may: determine the minimum

labour during the prohibition of work; temporarily prohibit activities of social and child protection or certain activities from the scope of social and child protection to the person who carries out the activity of the social and child protection contrary to this Law and regulations adopted for implementation of this Law for a period of at least 30 days and no longer than six months as of the day of the receipt of the document which imposes such measure; prohibit independent work to the professional worker who has not received or has not renewed the licence for independent work or whose licence for independent work has been revoked; suggest revocation of licence from the professional worker for the reasons prescribed by this Law.

**Appendix - Protocol on using the isolation room for users of Institute „Komanski most“**  
**Standard procedure**

**Title of the procedure**

Separation (isolation) of users of Institute "Komanski most"

**Definition of the procedure**

Separation or isolation is temporary therapeutic measure that is used in situations of extreme escalation of user`s aggression, to prevent potential self-harm or injury of other persons. Isolation only applies if less restrictive measures are ineffective in preserving or redirecting behavior.

**Clinical reasons for separation of unpredictable or violent behavior of users are:**

- behavior that is dangerous to the user, other users and other persons;
- verbal or physical threats with poor control;
- manic behavior with poor control and violence;
- an impoverished, weak or non-existent behavior control, which does not respond to less restrictive measures, such as drug therapy and verbal intervention;
- to the user`s request.

**Rules for separation**

- should not be used as punishment or abuse by staff;
- users who are suicidal, intoxicated, with a previously known cardiac and respiratory disorders may not be set aside in a locked room;
- decision on the separation of the users to the isolation room is brought by the specialist-psychiatrist, if he/she is personally present, or by nurse/technician, who takes responsibility more frequently, for a simple reason that, by the nature of their work, they are, for the most of their working time, much closer to users than the doctor. The nurse/technician is required to immediately notify specialists-psychiatrists, after the procedure of separation of users;
- never to approach user alone, to accompany him to the isolation room;
- the user who is in the isolation room must not have other measures of restraint.

For the purpose of security, following procedures are not allowed:

- twisting wrists;
- pulling hair;
- drowning;
- hitting;
- pinching;
- verbally abusing the user.

**Perpetrators of the procedure**

2-3 of nurses/technicians/professional workers

**Duration of the procedure**

15-20 minutes is needed to perform this procedure.

### **Purpose of the procedure**

Purpose of the procedure is to prevent the user from endangering the life or health of another person or his/her life or health or violently destroy other people's property of greater value;

### **Estimation for the application**

- state of awareness and somatic state;
- the ability to communicate with the user;
- user's cooperativeness;
- aggressiveness;
- psychopathological manifestations.

### **Planning and implementation:**

#### **1. Preparation of tools and materials:**

- isolation room;
- standard equipment for protection, if necessary, if there is a possibility of contact with body fluids (gloves, masks, eye protection)

#### **2. Performance:**

- Inform the user what you intend to do and why.
- Be firm, but polite to reduce tension, to convey the message to the user that will reduce anxiety and panic.
- Approach him with two or more health workers, alternately to the side, never approach user by yourself to accompany him to the isolation room (and thus protect user and yourself from potential injury).
- Prior placement into the isolation room, it is necessary to check if there are injuries, especially if the user complains about something, and is obligatory to register the injuries.
- The user is being changed into pyjamas and socks.
- In the isolation room, the user is not allowed to have: sharp objects, braces, shoes, shoelaces, trouser belt or vest, that could be used for self-injury.
- During the placement into the isolation room, if needed - sweep your hand under user's arm and clinch his hand below the elbow. The palm of your hand should be on the front of the user's hands. Catch the lower part of the user's arm in the area of the wrist with the other hand and so take the user to the isolation room. Avoid keeping the user for soft parts of the hand, as this reduces the chance of hematoma. Do not be in a position where the user can bite you, kick or lean on you.
- The door to isolation room must be locked.
- Observe the user every 15 minutes through a locked door window, or with the camera and monitor system. When using the camera and monitor, position of the monitor must be such that other users or visitors are not able to see the users in the isolation room. If the user is obviously upset or aggressive, constant supervision of a nurse/technician should be carried out. When you enter the isolation room, never enter alone.
- Repeatedly offer liquids to the user, so as to prevent dehydration.
- User in the isolation room is being provided with a break for 15 minutes every two hours.



Assess the patient's condition before and after the break, to determine whether the process of isolation should be continued.

- If the user's state permits, he may be enabled to leave the isolation room to take meals. If necessary, feed users and stay with him during the meals. Meals in the isolation room should be served only in plastic dishes.
- The presence of at least two nurses / technicians is always required when the user leaves the isolation room for the break and meals.
- The user should be released from the isolation room, as soon as possible, if his condition permits.
- The decision on the termination of the measure - separation of the user into the isolation room - is brought by a specialist-psychiatrist.

### **Documentation management**

Specialist - a psychiatrist:

- visits the user
- fills in the protocol on the separation of users
- controls mental and physical state of the users
- enters the visitation's time
- enters the date and hour of the termination of intervention.

The nurse / technician who is in charge for user in the isolation room:

- continuously monitors the user
- assures the necessity of cooperation
- plans the schedule of breaks and meals
- every 15 - 30 minutes brings notes into the nursing report
- conducts evaluation

### **IMPORTANT:**

- interventions are to be recorded in the medical records
- to inform the user's legal representative
- to keep nursing documentation - nursing record observations every 15 minutes, records of entries and amount of liquids, and unusual physical conditions or injuries. Within 24 hours after moving the user from isolation room, register changes in mental status, degree of self-control impulses, the effect of drugs and evaluation of the settled health care plan.

Because of the potential judicial reconstruction of the process, it is necessary to have clear answers to the following questions:

- on which arguments is the measure - isolation of user based;
- who was involved in making the decision
- who bears the ultimate responsibility

The obligation of proper and maximum professional management of medical and nursing documentation is a legal standard that must be followed.