

Response

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

from 29 September to 9 October 2015

The Government of Bosnia and Herzegovina has requested the publication of this response. The CPT's report on the September/October 2015 visit to Bosnia and Herzegovina is set out in document CPT/Inf (2016) 17.

Strasbourg, 2 March 2017

Note:

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.

REPORT
**of the authorities of Bosnia and Herzegovina on the recommendations and comments of
the European Committee for the Prevention of Torture and Inhuman or Degrading
Treatment or Punishment (CPT) after the 29 September to 9 October 2015 visit**

1. INTRODUCTION

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter: the CPT) visited Bosnia and Herzegovina in the period from 29 September to 9 October 2015. It was CPT's fourth periodic visit aimed at reviewing the treatment and conditions of detention of persons deprived of their liberty by the police and in prison establishments, as well as to examine the situation of persons placed in two psychiatric institutions in Sarajevo Canton.

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, following its visit to Bosnia and Herzegovina (BiH), the CPT sent a report to the Government of Bosnia and Herzegovina adopted by the CPT at its 89th meeting, held from 7 to 11 March 2016¹. The report formulated recommendations, comments and requests for information for the authorities of Bosnia and Herzegovina to provide answers within six months.

The relevant authorities of Bosnia and Herzegovina have provided answers to the recommendations, comments and requests for information the CPT sent to the authorities of Bosnia and Herzegovina and the authorities are: the High Judicial and Prosecutorial Council of Bosnia and Herzegovina, the BiH Ombudsman, the BiH Border Police, the Ministry of Justice of FBiH, the Ministry of the Interior of FBiH, the Ministry of the Interior of Sarajevo Canton, the Ministry of Justice of RS, the Ministry of Health and Social Security of RS, the Police of the Brčko District of BiH, Psychiatric Hospital of Canton Sarajevo - Jagomir and Psychiatric Clinic of the University Medical Centre - Koševo Sarajevo. Contributions submitted by the relevant institutions are an integral part of this report.

2. IMPLEMENTATION OF CPT'S RECOMMENDATIONS AND COMMENTS

The CPT's Delegation reviewed the treatment and conditions of detention of persons deprived of their liberty by the police and in prison establishments, as well as the situation of persons placed in two psychiatric institutions in Sarajevo Canton.

In the report, the CPT underlined the generally good co-operation from the authorities at the State and Entity level throughout the visit the CPT's delegation received. Nevertheless, the Committee expressed concerns regarding the fact that the bulk of its previous recommendations regarding a purposeful regime for remand prisoners, prison healthcare and safeguards for the prevention of police ill-treatment had not been implemented.

Law enforcement agencies

The delegation received a considerable number of allegations of widespread physical ill-treatment of detained persons by law enforcement officials. Recommendations are made to

¹ Report to the Government of Bosnia and Herzegovina on the visit to Bosnia and Herzegovina carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 29 September to 9 October 2015, adopted on 11 March 2016; Savjet Evrope, Strasbourg, 24 March 2016;

promote a culture change within the ranks of law enforcement officials, to enhance professional training in modern scientific methods of criminal investigation and to carry out effective investigations into allegations of ill-treatment.

Allegations of ill-treatment were noted in CPT's reports on the 2011 periodic visit and 2012 ad hoc visit which is the reason why the CPT's delegation recommends to all law enforcement agencies of BiH that steps should be taken to monitor police interviewing standards and procedures and introduce electronic video recording of police interviews.

As one of the most important recommendations, the CPT states the message of zero tolerance of ill-treatment of detained persons. This recommendation goes to ministries of the interior at all levels, the following police stations: Konjic, Mostar Centar, Novo Sarajevo, Zenica Centar, Doboj, Istočno Sarajevo and Brčko; the headquarters of the judicial police in Tuzla; the Public Security Centers of Banja Luka and Bijeljina, the Brčko Border Police, as well as holding cells in the Cantonal Prosecutor's Office of Tuzla, the Banja Luka District Prosecutor's Office, the Doboj District Prosecutor's Office and the Banja Luka District Prosecutor's Office.

The CPT took the opportunity to once again call upon the authorities of Bosnia and Herzegovina and emphasize the importance of ensuring that all detained persons are granted the right to notify a close relative or third party of their choice of their situation as from the very outset of their deprivation of liberty by the police.

According to the responses provided by authorized institutions one can conclude that the conduct of police officers towards persons deprived of liberty in any form is governed by, in addition to provisions of international instruments, provisions of relevant laws in BiH² and that there is a relevant legal framework in BiH to protect detainees from abuse.

When it comes to mechanisms for monitoring and control, the response of the Ministry of the Interior of Sarajevo Canton indicates that the Internal Control Division of the Professional Standards Unit as an organizational unit independent in its work, which acts in accordance with other legislation and regulations and conducts proceedings to adjudicate submitted complaints relating to the existence of reasonable doubt for a violation of official duties.

The RS Ministry of the Interior provided data on the number of complaints received and the actions taken upon complaints alleging torture and ill treatment by police officers in the visited Centres for Public Security of Trebinje and Bijeljina.

Since 2009, the Prosecutor's Office of Brčko District of Bosnia and Herzegovina has received a total of four cases involving the crime of abuse in the execution of duty under Article 179 of the Criminal Code of Brčko District.

The Ministries of the Interior of the Federation and the Republika Srpska state that the system of complaints against unlawful actions of police officers has been improved and records of injuries are kept in medical files systematically and in more detail than in the past, supported by photographs and a map of the body with registered injuries suffered during the execution of criminal sanctions.

² The Criminal Procedure Code of the Federation of Bosnia and Herzegovina, the Law on Minor Offences of the Federation of Bosnia and Herzegovina, the Law on Police Officers of Sarajevo Canton, the Instructions on the Treatment of Persons Deprived of Liberty;

The relevant law enforcement agencies fully comply with the recommendation of the Committee that all persons detained by the police are fully informed in a language they understand of their rights, including the right to notify a close relative or third party of their choice of their deprivation of liberty, access to a lawyer and the right to a doctor. This applies especially to minors who often need instructions by lawyer or a third party of confidence when they are asked to give statements or to sign any document in connection with the offenses of which they are suspected.

Actions taken by prosecutors and judges to investigate allegations of ill-treatment

The CPT recommends that the Chief Prosecutors and the Presidents of the Supreme Courts of both Entities and of the Cantons recall firmly that prosecutors and judges should act in accordance with the above principles.

A significant progress has been made by the Prosecutor's Office of the Federation of Bosnia and Herzegovina, where the chief Federation prosecutor informed all cantonal prosecutor's offices about Mandatory Instruction A-234/07 dated 22 June 2007, to once again attract attention to the topic of prevention of abuse, torture and inhuman treatment by the authorized officials and the fast, efficient and thorough investigation if they still occur.

Ensuring the legality of prosecution, on the basis of its powers provided for in Article 9 in conjunction with Articles 5 and 23 of the Law on Prosecutors, on 10 September 2013, the Chief Public Prosecutor of the RS Public Prosecutor's Office issued general binding instructions number A-487/12 for all district courts in RS, providing for the organization and procedures by prosecutors when acting upon reported criminal acts of abuse in office committed by authorized and other officials against participants in criminal proceedings, such as reporting of violations of human dignity by abuse of official position or authority under Article 359 of the Criminal Code of the Republika Srpska; the crime of extortion of statements under Article 358 of RS CC; the crime of abuse under Article 168 of CC RS etc., in order to conduct independent investigations of these and such crimes and their perpetrators.

Material conditions in prison establishments

The CPT noted that the material conditions in most of the police holding facilities visited by the delegation were unfit for holding persons overnight and that is the reasons why the CPT calls upon the BiH authorities to improve the conditions in all police holding facilities in line with the Committee's standards.

In their responses, the institution stated that a progress has been made. It was stated that a progress was made with maximum efforts in order to adapt the existing capacities to the number of inmates. The fact is that further efforts need to be made in order to ensure material support by relevant institutions required to expand the capacities.

Compared to the difficulties with accommodation in some of the correctional institutions in 2011 and 2012, when the particular institutions were compelled to send written requests to the competent court to resolve difficulties with accommodation in the event of overcrowding, today the projects of expansion and specification of costs involved are being developed. A concrete example is Banja Luka Prison that sent a request to the Ministry of Justice of the Republika Srpska for funds needed for reconstruction of the building and once the funds have been earmarked, the works will start.

Prison establishments

After 2011 and 2012 visits the CPT's delegation observed that custodial staff in some prison establishments visited use means of restraint and continues to carry truncheons inside detention areas, which the Committee finds unnecessary. The prison officers need to be properly trained in control and restraint techniques (i.e. manual control) and de-escalation instead, so that they can choose the most appropriate response when confronted by difficult situations.

The CPT highlights in the report that a majority of prisoners met by the CPT's delegation stated they were treated correctly by staff. The CPT stated that, nevertheless, several allegations of ill-treatment of inmates by staff were received at Banja Luka, Bijeljina, Dobož, Tuzla and Zenica Prisons. The CPT highlights that not only a strong message should be delivered to penitentiary staff that ill-treatment of prisoners is not acceptable but more training modules on manual control techniques and inter-personal skills should be offered to custodial staff and independent investigations should be conducted promptly.

In relation to the CPT's remark, the Police Administration of the Ministry of the Interior of Sarajevo Canton states that they held a lot of training activities in cooperation with the Cantonal Prosecutor's Office of Sarajevo on improving the cooperation of prosecutors and authorized officials of the Police Administration in application of the provisions of criminal law, with a special focus on case studies. More than 600 people from the police, centres for social work, mediators, lawyers and prison staff that work directly with minors, which should improve control and restraint techniques in prison were certified.

High-security and enhanced supervision departments in correctional institutions

In its recommendations the CPT pays special attention to inmates accommodated in high-security and enhanced supervision departments at Banja Luka, Foča and Zenica Prisons. All these inmates should be informed in writing of the reasons for any placement and of any extension, and be guaranteed the right of appeal to an independent authority since such basic safeguards were not in place at the time of the visit. Further, all such prisoners should be provided with a purposeful regime and a revised sentence plan should be drawn up to assist the prisoner to successfully reintegrate into the general prison population.

Pursuant to the Law on Special Regime of Imprisonment, this Department takes convicted persons who, during the execution of their prison sentence, threaten to significantly affect the safety of the institution, break the rules of order and discipline, as well as convicted persons who are found to be the subject of failed measures earlier taken in their treatment. The purpose of placement in the Department is to prevent all forms of behaviour of convicted persons aimed at undermining the formal system and work organization of prison, through the application of specific methods and forms of work. The placement in the Department is not considered a disciplinary punishment.

In its answer the RS Ministry of Justice states that, in Foča Prison, based on the proposal by expert team for each inmate having received the measure of placement in this Department, an individual treatment programme is developed for treatment of the convicted person while in the Department. The individual treatment programme is made on the basis of a detailed

analysis of risk factors and the needs of the convicted person (security, personality, health needs, sports and recreational and occupational and therapeutic purposes).

The Federation Ministry of Justice will ask the Zenica Prison management to draw up a revised sentence plan together with the prisoner upon his placement in the high-security Pavilion IV (including prisoners sent there under enhanced personal treatment), setting out the objectives and goals to be achieved in order to successfully reintegrate into the general prison population.

Adequate staffing in correctional institutions

According to the CPT, staffing levels at all the prisons visited in the FBiH, starting with Zenica Prison adversely affects the ability to guarantee staff safety and the physical and mental integrity of inmates. The situation is compounded by the recently introduced ban on recruitment imposed by the Government of the FBiH on the entire public administration.

The CPT had no objection to the number of prison staff in the Republika Srpska.

Following this recommendation, the Federation Ministry of Justice has made an important step and made a thorough review of the current state of employees in the correctional institutions and then prepared a proposal to the Government of the Federation of Bosnia and Herzegovina, with an explanation of the need for new 50 recruitments of security service officers and professional staff.

The regime in correctional institutions

After the CPT's visit to Bosnia and Herzegovina in 2011, the Committee expressed his observation that some detained persons spend time in a particular area for a period of several years, but have no organized activities. It recommends that the authorities should organize a range of purposeful activities that will correspond to the period of detention or imprisonment, in such a way the longer period of imprisonment the better organized activities.

The same recommendation is repeated in the 2016 Report.

A remarkable progress can be seen in practice, especially in prisons in the Republika Srpska. The convicted persons in correctional institutions in the Republika Srpska, including convicted persons placed in the Enhanced Supervision Department, can go to the room where they can do sports and recreational activities, table tennis etc.

The Federation Ministry of Justice did not cover this area in its report.

Health-care services in correctional institutions and access to medical doctor

With regard to health care services in prisons, the CPT recommends that the Ministries of Health and Justice jointly improve prison health-care services based on the recommendations made by the Committee. The health-care staffing complements should be reinforced, notably at Mostar, Sarajevo and Zenica Prisons, and the steps should be taken to ensure that medical assessments and the recording of prisoners' injuries are conducted in line with the requirements set out by the CPT.

The Institution of Ombudsman for Human Rights of Bosnia and Herzegovina has not recorded prisoners' complaints about provision of medical emergency services.

Following these recommendations, the Ministry of Justice of the Federation of Bosnia and Herzegovina has taken active measures to improve the situation in health care services by

increasing activities of general practitioners in prisons, adhering to the terms and conditions of contracts under which they work, supplying adequate quantities of medicines and improving the quality of health records as recommended Committee.

The RS Ministry of Justice and the RS Ministry of Health and Social Welfare have provided a detailed report regarding the treatment of detained persons from the moment of admission to the moment of incarceration and the preventive activities by systemic testing for hepatitis B and C, HIV and tuberculosis. There have been no cases of prisoners infected / affected by HIV / AIDS in correctional institutions in the Republika Srpska.

The Ministry of Health and Social Protection of the Republika Srpska takes an active part in the creation and development of strategic documents³ for health care system development in the Republika Srpska and umbrella laws⁴ to regulate the area of health care and social welfare in order to contribute to creating an environment for the provision of quality health care to people who are serving sentences in correctional institutions.

Forensic patients in Tuzla Prison

Relocation of seven forensic patients from Tuzla Prison into an appropriate medical institution is still an outstanding issue.

Although the Ministry for Human Rights and Refugees in cooperation of the Ministry of Health and the Ministry of Justice of the Federation BiH and the management of the Jagomir Psychiatric Hospital found out a solution to place seven forensic patients, we are informed by the Ministry of Justice of the Federation BiH that the relocation of seven forensic patients into the Jagomir Psychiatric Hospital is not possible due to a lack of funds.

The Ministry of Health and Social Protection of the Republika Srpska stated that the official start of operations at the Special Hospital for Forensic Psychiatry at Sokolac was conditional upon forensic medicine specialists staffing. The Action Plan of the Special Hospital for Forensic Psychiatry at Sokolac schedules hiring of forensic medicine specialists by 31 December 2016, without specifying the date of putting into operation the Special Hospital for Forensic Psychiatry of Sokolac.

At its 66th session held on 28 July 2016, the Council of Ministers entrusted the BiH Ministry of Justice and the BiH Ministry of Human Rights and Refugees to urgently resolve the issue of adequate placement of forensic patients.

Juveniles serving custodial measures

The Committee would like to be informed of the timetable for the adoption and application of the relevant rulebooks provided for by the new Law on the Protection and Treatment of Children and Juveniles in Criminal Proceedings of the Federation of BiH. The FBiH Ministry of Justice has adopted the rulebooks and the Federation Government has adopted the Decree on the Application of Correctional Recommendations for Minors. The Federation Ministry of the Interior adopted the Rulebook on the Implementation of Measures of Police Warnings. Brčko District has adopted all delegated legislation that is necessary for the implementation of the Law on Protection and Treatment of Children and Juveniles in Criminal Proceedings.

³ The Strategy for Drug Control and Elimination of Drug Abuse of the Republika Srpska for the period from 2016 to 2021. (Official Gazette of the Republika Srpska 56/16);

⁴ The Law on Health Care; the Law on Amendments to the Law on Health Care (Official Gazette of the Republika Srpska 18/99,58/01,62/01, 106/09, 44/15);

The treatment plan in psychiatric institutions

The CPT finds a positive and caring approach by staff towards patients in Jagomir Psychiatric Hospital of Canton Sarajevo and Koševo Psychiatric Clinic, University of Sarajevo Clinical Centre.

The CPT recommends that a written individual treatment plan be drawn up for every patient and that the patient be consulted in this process and the plan explained to the patient. Further, increased efforts should be made to widen the range and availability of rehabilitative and therapeutic activities on offer at both hospitals.

Jagomir Psychiatric Hospital has accepted the recommendation of the CPT that the individual treatment plan should be amended to include a more extensive scope and availability of rehabilitative therapeutic activities, which are anyway applied in everyday therapeutic work with patients.

3. GENERAL CONCLUSION

Considering the overall situation on the basis of reports on the recommendations and comments of the CPT provided by competent institutions of Bosnia and Herzegovina, it can be concluded that some progress has been achieved in several areas. However, as recommended by the CPT, it is necessary in the coming period to improve and speed up investigations of physical abuse of detainees, to improve the professional development in modern scientific methods of criminal investigation, enhance the capacity of professional standards units and their efficiency in responding to complaints.

The Ministries of the Interior and the Ministries of Justice at all levels of government in Bosnia and Herzegovina are obliged to promote a clear and strong message of zero tolerance of ill-treatment of persons deprived of their liberty. Police officers and prison staff should constantly be reminded that any ill-treatment of detained persons is a criminal offense and will be prosecuted accordingly.

It is also necessary to carry out further activities for improving accommodation in correctional facilities and psychiatric institutions in BiH.

In accordance with the above, we suggest that the Council of Ministers should adopt the following

CONCLUSIONS

- 1. The report of Bosnia and Herzegovina on the recommendations and comments of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following a visit to Bosnia and Herzegovina from 29 September to 9 October 2015 is approved.**
- 2. The Ministry of Human Rights and Refugees is tasked to transmit the report of Bosnia and Herzegovina on the recommendations and comments of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following a visit to Bosnia and Herzegovina from 29 September to 9 October 2015 with attached submissions of relevant institutions of BiH to the Secretariat of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT).**

I N F O R M A T I O N

regarding the recommendations made by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) for judicial authorities in BiH

Introduction

The Ministry of Human Rights and Refugees (hereinafter: MHRR) sent to the High Judicial and Prosecutorial Council of Bosnia and Herzegovina (hereinafter: BiH HJPC) the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) adopted at the 59th meeting of the Council of Ministers on 6 June 2016. The MHRR requested the HJPC to provide the information on the degree of implementation of recommendations under the report relating to the judiciary.

In order to comply with MHRR's request, BiH HJPC¹ requested of entity prosecutor's offices and supreme courts to collect, review and provide the information regarding the recommendations of the report relating to the judiciary, pursuant to their responsibilities for supervision over the work of lower instance prosecutor's offices and courts. In addition, HJPC requested that the Court of BiH, the Prosecutor's Office of BiH, the Appellate Court and the Prosecutor's Office of the Brcko District of BiH should provide the above information in accordance with their responsibilities.

Analysis of the reports submitted by the judicial institutions in relation to the recommendations contained in the Report:

Recommendation of paragraph 19.

Moreover, it is essential that effective investigations into allegations of ill-treatment must be undertaken to demonstrate that criminal acts by the police will be punished and to counter the current culture of impunity that pervades parts of the various police forces within the country. This will also back up any message of zero tolerance.

Recommendation of paragraph 20.

The CPT recommends that these obligations (Investigations into allegations of ill-treatment) be strictly observed by the authorities. It would like to be informed of the steps taken to ensure that this is the case.

SUPREME COURT OF THE REPUBLIKA SRPSKA

One can conclude from the comments given by lower courts that such cases have been recorded and in this regard a case before the District Court in Banja Luka - Special Department for Organized and the Most Serious Forms of Economic Crime is particularly interesting, which case shows that police officers received multi-year prison sentences for criminal offenses committed in concurrence - Organized Crime under Article 383 a.), paragraphs 3 and 2 of the Criminal Code of the Republika Srpska, in conjunction with the criminal offense of Illicit Manufacturing and Trafficking in Narcotic Drugs under Article 224, paragraph 2 in conjunction with paragraph 1 of the CC and the criminal offense of Abuse of Office and Authority under Article 347, paragraph 4 in conjunction with paragraph 3 of the CC, and the criminal offense of Violation of Human Dignity by Abuse of Official Position or Authority under Article 359 of the Criminal Code of the Republika Srpska. It is precisely this case that shows that CPT's recommendations are justified and that there are actual and serious forms of torture and inhuman or degrading treatment or punishment and that, in this regard, the Ministry of the Interior should take all measures to reduce such cases, such serious cases as much as possible. In this respect, preventive measures are certainly important and they primarily include training and raising authorized officials' awareness that any form of ill-treatment of detainees may lead to their punishment, on the one hand, and, on the other hand, that such conduct of authorized persons upsets the public and creates a negative perception and doubts about safety and security.

¹ The Supreme Court of the Federation of BiH did not provide the requested information to 16.11.2016.godine. The Prosecution of BiH stated that the CPT report does not contain recommendations relating to the institution.

APPELLATE COURT OF THE BRCKO DISTRICT OF BOSNIA AND HERZEGOVINA

The president of the Court sent the information that there are no detention facilities or prison establishments in the territory of the Brcko District of Bosnia and Herzegovina. So, the persons who receive a decision of the courts of the Brcko District of BiH on custody or prison sentence are sent to correctional institutions in the entities. Further, the president of the Court stated in his information that there had been no complaints by such persons about how they were treated in correctional facilities by detention or prison officers.

PROSECUTOR'S OFFICE OF THE FEDERATION OF BOSNIA AND HERZEGOVINA (THE PERIOD FROM THE BEGINNING OF 2013 TO 28 OCTOBER 2016)

It follows from the information received that, in the above-mentioned period, the Cantonal Prosecutor's Office of Tuzla Canton based in Tuzla had a total of sixteen cases involving the criminal offence of Ill-treatment in the Performance of Duties under Article 182 of FBiH CC. Searching the TCMS database, it is evident that six cases are still pending, i.e. the final prosecutorial decision has not been made, while other cases are closed and archived.

In the past three years, the Cantonal Prosecutor's Office of Zenica-Doboj Canton based in Zenica received from natural persons a total of fifteen criminal charges for the criminal offence of Ill-treatment in the Performance of Duties under Article 182 of FBiH CC. The charges were mainly brought by persons serving a prison sentence in Zenica Prison. None of the aforementioned criminal charges resulted in an indictment and, in seven cases, orders for non-conduct or suspension of investigation were issued, while eight cases are still pending.

In the period 2013-2016, the Cantonal Prosecutor's Office of Sarajevo Canton had a total of seven cases involving the criminal offence of Ill-treatment in the Performance of Duties under Article 182 of FBiH CC. In five cases, orders for non-conduct or suspension of investigation were issued, while two cases are still under investigation. Thus, no indictment was brought.

According to a report on the commission of criminal offenses, the Cantonal Prosecutor's Office of Una-Sana Canton based in Bihac had a total of seven cases involving the criminal offence of Ill-treatment in the Performance of Duties under Article 182 of FBiH CC, of which six cases involved nineteen known persons (KT cases) and one case involved an unspecified number of unknown persons (KTN case). In four cases, orders for non-conduct or suspension of investigation have been issued, while in three cases against four persons the final prosecutorial decision has not been made. Thus, no indictment was brought in the reporting period.

In 2015, the Cantonal Prosecutor's Office of Canton 10 based in Livno brought an indictment involving the criminal offence of Ill-treatment in the Performance of Duties under Article 182 of FBiH CC, in which case the authorized official physically attacked suspected/detained person in the official premises, during which he inflicted light bodily injury on the detainee. There were no other cases involving these criminal offences.

In the reference period, the Cantonal Prosecutor's Offices of Herzegovina-Neretva Canton based in Mostar, Posavina Canton based in Orasje, Bosnia –Podrinje Canton based in Gorazde, West Herzegovina Canton based in Siroki Brijeg and Central Bosnia Canton based in Travnik did not have any cases involving ill-treatment of detained or convicted persons by officials in police agencies or institutions for serving prison sentences.

PROSECUTOR'S OFFICE OF BRČKO DISTRICT OF BOSNIA AND HERZEGOVINA (THE PERIOD FROM THE BEGINNING OF 2013 TO 28 OCTOBER 2016)

Since 2009, the Prosecutor's Office has investigated a total of four cases involving the crime of Ill-treatment in the Performance of Duties under Article 179 of the Criminal Code of the Brcko District of BiH. Of the four reported cases, two investigations resulted in indictments and the proceedings were closed with a final conviction in one case and with acquittal in another case. One of the reported cases, which does not even involve ill-treatment by police (but by a public utility worker), was closed with an order for the termination of investigation, while a case against unknown perpetrator is still pending.

On the other hand, the Prosecutor's Office did not have cases involving the crime of extortion of testimony under Article 178 of the Criminal Code of the Brcko District of BiH.

Recommendation of paragraph 22.

The CPT recommends that the Chief Prosecutors and the Presidents of the Supreme Courts of both Entities and of the Cantons recall firmly that prosecutors and judges should act in accordance with the above principles.

COURT OF BOSNIA AND HERZEGOVINA

The President of the Court of BiH reported that she informed all judges of that court about the report of the CPT and especially about the recommendation of paragraph 22.

PROSECUTOR'S OFFICE OF THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Chief Federation Prosecutor has reported that regarding the recommendation of paragraph 22, he has already drawn up the Mandatory Instruction No. A-234/07 dated 22 June 2007, ordering, in fact, that, if they have information that the suspect or any other person was subjected to ill-treatment, inhumane treatment, torture or degrading treatment by any authorized officials, all cantonal prosecutors in the Federation of BiH should carry out prompt, effective and thorough investigation in order to determine the grounded suspicion or grounds of suspicion of the existence of criminal offenses primarily the criminal offence of ill-treatment in the Performance of Duties under Article 182 of FBiH CC and extortion of statements under Article 181 of FBiH CC.

In November 2016 the Chief Federation Prosecutor circulated once again to all cantonal prosecutor's offices a copy of the Mandatory Instruction No. A-234/07 dated 22 June 2007 in order to inform all cantonal prosecutors about it, especially those who were appointed after the adoption of the Instruction, noting that all cantonal prosecutors should be informed about the parts of CPT's report relevant to prosecutor's offices. Such actions are considered by the chief Federation prosecutor particularly important bearing in mind the statistics on the work of cantonal prosecutors in the Federation of BiH on this matter, which statistics show a generally low number of cases, and, in particular, a low number of prosecutions of allegations of ill-treatment. When circulating the Mandatory Instruction, the Cantonal Prosecutor's Offices of Sarajevo Canton, the Cantonal Prosecutor's Office of Herzegovina-Neretva Canton based in Mostar, the Cantonal Prosecutor's Office of Tuzla Canton based in Tuzla and the Cantonal Prosecutor's Office of Zenica-Doboj Canton based in Zenica were asked to pay attention to pages five, fourteen, fifteen, sixteen and twenty-seven of CPT's Report, where, in addition to generally poor conditions listed, certain specific instances of allegations of ill-treatment of detained and convicted persons were cited, which allegations should be thoroughly checked, and prosecutorial decisions on them should be made, unless, of course, it has already been done.

PROSECUTOR'S OFFICE OF THE REPUBLIKA SRPSKA

With regard to CPT's report and recommendations, as provided for in the rights and duties under the Law on Public Prosecution of the Republika Srpska and the RS Criminal Procedure Code, the RS Prosecutor's Office regularly takes measures and actions identified in the implementation of CPT's recommendations in order to meet its obligations under the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, including the following in particular:

I - On 10 September 2013, insuring legality of prosecution on the basis of its authority defined in Article 9 in conjunction with Articles 5 and 23 of the Law on Prosecutor's Offices, the Chief Public Prosecutor of the Republika Srpska enacted General Mandatory Instruction No. A-487/12 for all district courts in RS stipulating the organization and procedures of prosecutors while acting on the reports of the crimes of ill-treatment in office by authorized and other officials committed against participants in the criminal proceedings, such as reported criminal offenses of violation of human dignity by abuse of official position or authority under Article 359 of RS CC; of the crime of extortion of statements under Article 358 RS CC; the criminal offense of ill-treatment under Article 168 of RS CC etc., in order to carry out independent investigations of these and similar crimes and their perpetrators.

II - At the same time, as required, in compliance with his authority, the Chief Public Prosecutor obtains information about the above-mentioned cases, i.e. the results of the activities undertaken, from the chief district public prosecutors.

PROSECUTOR'S OFFICE OF BRČKO DISTRICT OF BOSNIA AND HERZEGOVINA

In the period from 2011 to 2016, only at the meetings of the Collegium of the Prosecutor's Office, the Chief Prosecutor issued more than 150 general and individual orders and guidelines relating to the execution of duties of prosecutors. Numerous orders relating to the conduct of prosecutors at the stage of filing a report and the stage of investigation were given as general and individual guidelines. However, as none of the orders directly related to ill-treatment in office and CPT's recommendations precisely require such specific actions, orders with the guidelines covering the appropriate CPT recommendation will be issued in due course.

Recommendation of paragraph 26.

The CPT calls upon the authorities of Bosnia and Herzegovina to ensure that the right of access to a lawyer is both explicitly granted in law and rendered effective in practice for everyone deprived of their liberty by the law enforcement authorities, from the very outset of their deprivation of liberty. Further, persons detained by the police should be able to talk to a lawyer in private and the lawyer should be present during the police interview. Moreover, all law enforcement officials should be reminded that detained persons may exercise their rights at any stage of their custody.

As regards juveniles, they should never be subjected to police questioning or be requested to make a statement or to sign any document concerning the offence he/she is suspected of having committed without the presence of a lawyer and, in principle, a trusted adult person.

PROSECUTOR'S OFFICE OF BRČKO DISTRICT OF BOSNIA AND HERZEGOVINA

After being informed about the problems that arise in the determination of counsel in the investigation by authorized officers of the Police of Brcko District of BiH Chief Prosecutor issued a binding order to the following content:

"Entrusted to the prosecutors that, in such cases, provide authorized officials with all necessary technical assistance, in case it is necessary for the provision of lawful and effective management of the investigation that the budget of the Prosecutor, defence counsel designated directly."

As, however, this order relates to the conduct of authorized officials when the suspect wants to testify in the investigation and that given on the recommendation of the Committee may be further concretized, it will most directly in terms of implementation of the respective recommendations will be specified in the near future. The order shall, within the duties of the prosecutor to lead the investigation, contain directions to authorized officials on the protection of rights, which is necessary to ensure the initial stage of investigation procedure.

Recommendation of paragraph 49.

The CPT calls upon the relevant authorities to take steps as a matter of urgency to radically improve activities for remand prisoners. The aim should be to ensure that all prisoners are able to spend a reasonable part of the day outside their cells, engaged in purposeful activities of a varied nature (group association activities; work, preferably with vocational value; education; sport). All exercise yards should be equipped with a shelter against inclement weather and provided with fitness equipment.

Further, immediate steps should be taken to ensure that all persons on remand are offered two hours of outdoor exercise every day, in conformity with the provisions of the Criminal Procedure Code of the FBiH.

The Committee also calls upon the relevant authorities to ensure that all juveniles who are held in a penal institution are offered educational and recreational activities which take into account the specific needs of their age group. Physical education should form a major part of that programme.

SUPREME COURT OF THE REPUBLIKA SRPSKA (RECOMMENDATIONS CONCERNING TREATMENT AND CONDITIONS OF DETENTION)

We note that Articles 205 to 212 of the Criminal Procedure Code of RS related to the execution of detention in statutory institutions, the rights and freedoms of detainees, the data processing of detainees, which are stored at the Ministry of Justice, the house rules, their specific rights such as the right to an eight-hour uninterrupted rest, the right to stay and walk outdoors for at least 2 hours a day, the right to communicate with the outside world and with counsel and the right to confidential correspondence with any other person and the right to make telephone calls, (which rights can be restricted only exceptionally in the cases exhaustively enumerated in the decision of the court), as well as disciplinary offenses.

These statutory provisions are not fully consistent with the House Rules (in particular in Banja Luka Prison), as an institution for the measure of keeping in custody, because the Rulebook is more restrictive than the Law as regards the rights of detainees to confidential correspondence, telephone conversations etc., which in any case must be certified, because the Rulebook must be in accordance with the Criminal Procedure Code of the Republika Srpska.

Reports from lower courts clearly show that in order to supervise the execution of detention pursuant to Article 211 of the Criminal Procedure Code of the Republika Srpska, the lower instance courts, i.e. the presidents of the courts, regularly visit detainees in all district prisons and carry out individual interviews with detainees and obtain information about health care services and hygienic treatment and their procedural rights in proceedings before the courts. In this regard, they receive relevant information from detainees about disciplinary sanctions: suspended visits and contacts with the outside world (no restrictions on visits by counsel), so that one can generally infer that the conclusion of the CPT's report is correct, i.e. that there is a need to work on reducing the excessive "martial" discipline in the institutions and reduce them to a measure that is necessary to create in these institutions a safe environment for the preparation of the defence for the trial and preparation of prisoners for reintegration into society.

Generally, there is a need to work on creating mechanisms to mitigate the existing disciplinary measures, due to the reaction and the expressed dissatisfaction of detainees / prisoners, which should be further examined in the prescribed procedure.

Further, the recommendations regarding extending the duration of visits and the number of telephone calls are justified and there is a need to work on their prolonging and more meaningful activities should be introduced during the day, in order to give detainees a sense of safety and security. Further, staying outdoors should not be limited because of great numbers of detainees / prisoners, because this area is very important and therefore it should be properly organized and planned, and not limited.

Recommendation of paragraph 57.

The Committee would like to be informed of the timetable for the adoption and application of the relevant rulebooks provided by the new Law on the Protection and Treatment of Children and Juveniles in Criminal Proceedings.

PROSECUTOR'S OFFICE OF BRČKO DISTRICT OF BOSNIA AND HERZEGOVINA

In this section, it should be noted that all bylaws necessary for the implementation of the Law on Protection and Treatment of Children and Juveniles in Criminal Proceedings were enacted and are applied in the Brcko District of BiH by this Office. On the basis of these acts, special treatment is guaranteed to juveniles and children who participate in proceedings in any capacity. In addition, the prosecutors, who specialized in a timely manner in working with children and juveniles, regularly carry out their duty of supervision over the execution of measures imposed on juveniles by visiting the institutions where the measure is executed and by other means. Their reports show satisfactory treatment of juveniles who are serving such measures.

Recommendation of paragraph 78.

The CPT recommends that all prisoners, as a rule and irrespective of their regime level, be offered the equivalent of one hour of visiting time per week and preferably be able to receive one visit per week. Only in exceptional cases should an investigative judge place a restriction on visits to a remand prisoner.

COURT OF BOSNIA AND HERZEGOVINA

With regard to paragraph 78, judges of the Court of BiH who decide on visits to detainees do not have jurisdiction over determining their duration because the visits take place in the manner and within the timeframe provided for in the house rules of the institution and, as far as restricting the visits is concerned, decisions are made by law.

Recommendation of paragraph 112.

The CPT recommends that the RS authorities take the necessary steps, through the appropriate channels, to ensure that remand prisoners receive appropriate and unimpeded access to specialist medical care whenever required and in particular in emergency and life-threatening situations. This decision should be a medical one and judges should have no right to counter such a decision.

SUPREME COURT OF THE REPUBLIKA SRPSKA

Regarding the Committee's recommendations concerning the Law on Protection of Persons with Mental Disorder and the Law on Non-contentious Procedure and decisions on involuntary commitment in accordance with the law, given it is a sensitive category of persons, we make sure that in these proceedings, the procedures regarding the placement of such persons are fully followed, as well as continuous cooperation with institutions that are specialized in the treatment of such persons is organized. Therefore, the conclusion and recommendations that the application of means of restraint to such persons should be avoided and treatment plans are equally needed for rehabilitation as well as therapeutic activities.

Number: Oi-173/16
Date: 25 October 2016

Answers to Questions under CPT Report

Question 9 – passage of the new Law on the Ombudsman for Human Rights of Bosnia and Herzegovina

A new Law on the Ombudsman for Human Rights of Bosnia and Herzegovina was not passed in 2016 although it was adopted by the Council of Ministers of Bosnia and Herzegovina and forwarded to the State Parliament for adoption. The new law has not been adopted because, in the process of passage, the Constitution and Legal Commission found non-compliance of the proposed Law on the Human Rights Ombudsman of Bosnia and Herzegovina with the Constitution of Bosnia and Herzegovina and the legal system of Bosnia and Herzegovina and that was the reason why members of the House of Peoples of the Parliamentary Assembly of Bosnia and Herzegovina did not support this Law.

Namely, the goal of this Law is a need to harmonize it with the Paris Principles, recommendations of the Council of Europe and recommendations of United Nations Committees, which points to the need to strengthen the Institution of Ombudsman for Human Rights in Bosnia and Herzegovina. In addition, this new Law governs the establishment the Mechanism for the Prevention of Torture and Other Cruel, Inhuman or Degrading Punishment or Treatment.

The Ombudsmen stress that the new Law is of particular importance to the Ombudsman Institution for Human Rights of Bosnia and Herzegovina so that it can maintain its 'A' status according to International Classification of National Institutions for the Protection of Human Rights, which status is granted to all the institutions fully operating in accordance with international human rights standards.

Question 23 –Investigation of allegations of ill-treatment

The Ombudsmen note that they investigate complaints relating to the operation and behaviour of law enforcement agencies, the Office for Public Complaints, the Professional Standards Unit of the Ministry of the Interior of Republika Srpska, which changed in 2016 its name to the Service Protecting the Integrity and Legality in Line of Duty.

Previous experience in working on these cases shows that the authorities designated in citizens' complaints formally conduct the proceedings, but then mainly find complaints groundless or without sufficient proof, so the citizens get the information on conducted internal investigation in the form of notification, without the benefit of a legal remedy. In this regard, it was concluded that it is necessary to provide a more objective system of deciding on appeals, as the Ombudsmen of Bosnia and Herzegovina stated in the 2015 Annual Report on the implementation of activities of Ombudsmen for Human Rights in Bosnia and Herzegovina, sending a recommendation to the Ministry of the Interior of the Federation of Bosnia and Herzegovina, the Ministry of the Interior of Republika Srpska, the Brčko District Police, the Ministries of the Interior of all cantons that they

should ascertain and improve the actual independence of the internal control of police officers, review the existence of real independence of the organs of control of police officers, provide two levels of proceedings conducted upon public complaints lodged against police officers, provide systemic and continuous training of police officers in human rights.

Question 24 - Safeguards against the ill-treatment of persons deprived of their liberty

In 2014, the Ombudsman of Bosnia and Herzegovina paid unannounced visits to police stations in Tuzla, Mostar and Zenica. The aim of the visits was to ascertain the manner of treatment of persons deprived of liberty while kept in custody or detention and accommodation conditions in police detention facilities. The visits were an opportunity to inspect a number of premises for detention of persons deprived of their liberty, the size of the rooms, how they were equipped with beds, linens and other amenities, the lighting in the premises, the provision of heating, the presence of moisture, the possibility of self-ventilation, fulfilment of hygiene requirements, equipment of sanitary annexes, access to drinking water, the possibility of communication of detained person with officers, video surveillance equipment and an assessment of whether the premises had non-standard objects that could be used to abuse and torture detainees.

The subject of the visit included a review of police records, period of keeping people, exercising the right to meals and meal content, the way of drafting the minutes on detention and an interview with officers of the Unit for Protection of People and Facilities and the Professional Standards Unit.

As an illustration, during a tour of the rooms in Tuzla Police Station it was ascertained that the premises for detention of persons deprived of their liberty are located in the buildings of the Police Stations of Centre, Lukavac, Srebrenik and Gracanica. Two rooms for persons deprived of their liberty are located in the basement of Centre Police Station are located in basement, equipped with bunk beds, mattresses and pillows whose hygiene is not adequate, the rooms have natural light, although poor because of the bars on the window, the presence of moisture is not felt and each room has a toilet with a squat toilet and sink, there are no objects pointing to suspected abuse of detainees, a detained person can communicate with the officer who stays in the hallway outside the room (no intercom, call bells or video surveillance), the hallway where the police officer stays does not have natural light and feels unventilated and full of moisture, the police officer is obliged to record the behaviour of the person in custody every 15 minutes in a Statement of Visit in accordance with the 2011 Instructions on Deprivation of Freedom, no one was found in the detention facilities, according to police officers adults and minors and women and men are not placed together in detention facilities, and if a person is kept in custody for longer than 8 hours, officers are required to deliver a full meal.

The Ombudsmen inspected randomly a number of files that were formed when the persons were placed in custody and ascertained that the central records of retained and detained persons was organized and kept in accordance with the Criminal Procedure Code of FBiH¹. Namely, for any person deprived of liberty, the Record of Deprivation of Liberty was made and contains, inter alia, an entry that the person deprived of liberty was advised as required by Article 5 of the FBiH CPC, in his native language or the language he understood, of the reasons for the deprivation of liberty, informed that he was not obliged to give evidence and that he had the right to counsel of his own choice and that he had the right to his family, consular officer or a person designated by him being informed of the deprivation of liberty. The Record of Release of Person Deprived of Liberty, the Record on Search of Person, the Certificate of Admission of Persons Deprived of Liberty, the Report on Visits and the Record on Hand Over of the Person from Detention Facilities. If a person

¹ Official Gazette of the Federation of BiH, 35/03, 37/03, 56/03

has visible injuries at admission, such a fact is indicated in the minutes, he is provided with medical help or is taken for a specialist examination and the physician's findings are inserted in the file. Each record provides for an opportunity of persons deprived of their liberty to comment and, if the objections relate to the conduct of police officers, they are forwarded to the Professional Standards Unit. According to data obtained in an interview with the Chief of the Department for Internal Investigations of the Professional Standards Unit, comments on the conduct of police officers are referred to the Citizen's Complaint Committee that approves internal investigations. If the Professional Standards Unit finds that the complaint is well-founded, i.e. a breach of official duty, it submits an initiative to the Disciplinary Commission to start the procedure for determining disciplinary responsibility. The Disciplinary Commission issues a decision (rješenje) that may be appealed with the Police Board. At this point two proceedings were pending involving two police officers who were under suspension for a breach of the Code of Behaviour.

Question 27 - Access to a doctor as from the very outset of deprivation of liberty

The allegations that "Access to medical care (i.e. through recourse to the emergency clinic) was generally only provided when ordered by a prosecutor or, more frequently, when the judicial police refused to accept a particular person from the police because they displayed visible injuries." The Ombudsmen emphasize that they are not aware of cases where persons deprived of liberty, who requested emergency medical assistance from police officers, were denied such requests. Certainly, not denying the allegations made in the Report, the Ombudsmen will monitor the recommendations and change what the Committee had objections on.

Questions 81 and 82 - Complaints and inspections

Dissatisfaction of prisoners is most often expressed through complaints of convicted persons addressed to various institutions. Mostly, appeals can be divided into two groups, namely those relating to the system of execution of criminal sanctions in prison, which include: the right to safety, the right to health care, food, treatment and social reintegration, work engagement, education, internal institutional facilities, meeting the religious needs and so on, and the second group of complaints relating to the rights to be decided outside the institution, such as the question of conditional release and transfer to another institution. Consideration of convicted persons' complaints entails/imposes, in addition to quality of procedures, the responsibility of competent authorities, which is why the question of responsibility for possible violations of the rights of detained and convicted persons is important to direct to the actual holder of this responsibility, prescribed by law. This is particularly important in terms of the issue to whom a convicted person sends a complaint, because there is a practice that complaints are usually addressed to prison, although the Law governing the execution of criminal sanctions in BiH determines that there are different entities responsible for this area.

The visits paid to prisons were an occasion for the Ombudsmen to consider how effective established appeal mechanisms are from the point of view of convicted person. On that occasion, it was noted that there were different ways of recording complaints of convicted persons within the institutions themselves, from the fact that in some institutions records of complaints were kept within request reports forwarded to the director of the institution, which was particularly characteristic for institutions in the Republika Srpska and some in the Federation (Bihac Prison). This recording of complaints makes their classification by rights which have been violated and the convicted person have complained about difficult, because it is undeniable that there is a legal difference between requests and complaints, including legal grounds. Some institutions in the Republika Srpska have introduced the practice of establishing Prisoners' Boards where prisoners can articulate their complaints. Supporting the establishing of Prisoners' Boards, especially for

consideration of issues relating to their rights, it is necessary to point out the necessity for an appeal mechanism for prisoners who are not ready to discuss their rights claims in the prisoners' collective.

A lack of separate records of complaints raises the issue of clear procedures for handling complaints. In some institutions there is no registration system of request or complaints (Orasje, Mostar, Bihac, Busovaca), but the director of the institution has interviews with convicted persons at their request. The convicted persons in Orasje Prison stated that their complaints often did not reach the director and were not responded appropriately.

In Mostar Prison, complaints are submitted in writing to the Director and Deputy Director, who take necessary actions for their examination and resolution. Records of complaints are not established and the practice of request reports was abolished because it was determined that such a mechanism established was not effective.

In Zenica Prison, processing of prisoners' complaints is governed by the Instruction on Handling Prisoners' Complaints enacted by the director of the Institute, which provides for three-instance complaints procedure. Officers act as the first instance, assistant directors act as the second instance and the director of the Institute acts as the third instance - the appellate body. However, this procedure of filing complaints by the convicted persons is usually ignored given most of the convicted persons directly turn to the director of the institution. The number of complaints to the director raised a need to establish their records, though, as such, there are not provided for in the Guidelines or any other by-law.

The Ombudsmen note that, in some institutions, directors practice direct turning of convicted persons to the director, i.e. a possibility of convicted persons' direct communication with the director, while at the same time, in other institutions, it is considered that communication with prisoners should be in the domain of prison staff, primarily treatment services.

In addition to addressing the institutions they are serving their sentences in, prisoners address the Ministries of Justice, the Ombudsman and other institutions. In some institutions, convicted persons can write open letters to the Ombudsman, which institutions register in their records and retain a copy of the complaint and give their observations about allegations of complaints. An explanation for this given by the management is that they seek to prevent the situation giving raise to complaints. During visits to the institutions, there was an impression that the written correspondence of the convicted person did not enjoy a minimum of privacy and that in some institutions, this correspondence was completely under control of the prison management. There are also cases where letters prisoners sent to other institutions, particularly to the Ombudsman, did not come out of the penitentiary. It is indisputable that, in order to ensure access to the Ombudsman, complaint boxes should be posted and exclusively the Ombudsmen should have access to them and such boxes must be located in the areas that are not under video surveillance.

Unfortunately, prisoners continue to believe that the complaint mechanisms are inefficient and inequitable. The Ombudsmen note that the correctional system has not set up a unified procedure of handling prisoners' complaints and summarise the practice as follows: treating complaints as request reports, three-instance complaints procedure, complaints being recorded somewhere (Zenica) and not somewhere, complaints are addressed directly to the Director, which is in practice the most common form without records of complaints. After visiting all prisons, the Ombudsmen came to a conclusion that there is no uniform system of receiving, recording or resolving complaints of convicted persons and that the complaint procedure mainly depends on the ingenuity of the prison management. At the same time, Article 80, paragraph 3 of the BiH LECS provides that the Ministry of Justice will pass a rulebook regulating the internal consideration of requests, complaints and other submissions filed by detainees and prisoners in order to protect their rights.

Question 140 - Legal protection during his stay in institutions

The Ombudsmen state that, back in 2009, they released A Special Report On Conditions In Institutions For Mentally Disabled Persons in Bosnia and Herzegovina which gave recommendations to the authorities in Bosnia and Herzegovina at all levels of government in Bosnia and Herzegovina with the aim of increasing the quality of care and support provided to institutions' beneficiaries and raising awareness of the competent entities on the human rights situation in this area. The issue of these institutions has again become topical after a decision of the Constitutional Court and a judgment of the European Court of Human Rights in Strasbourg in *Hadžimejlić and others against Bosnia and Herzegovina*.

Although the preventive mechanism in Bosnia and Herzegovina has not been established yet and it is evident that there is a need to re-visit these institutions in order to compare the situation in relation to 2009, although with limited material and financial resources, the Ombudsmen started re-visiting the institutions in 2016. As part of these activities so far, they have visited the following institutions: „Pazarić“ Care Home for the Youth, "Bakovići" Care Home for Mentally Disabled Persons, "Drin" Care Home for Mentally Disabled Persons of Fojnica, Public Health Institution "Sokolac" Psychiatric Hospital, "Stolac" Care Home for People with Disabilities and Other Persons, Public Health Institution „Jagomir“ Psychiatric Hospital of Sarajevo Canton, “Mjedenica“ Home for Special Education and Care of Children. In addition, there is a plan to pay visits to: "Jakeš" Home for Treatment, Rehabilitation and Care of Chronic Mental Patients of Modrica, "Visegrad" Home for Care of Female Children and the Youth, "Prijedor" Home for Children and the Youth with Special Needs and „Duje“ Care Home for Elderly, Infirm and Homeless Persons of Doboj Istok. After completion of all visits and a review of findings from the institutions persons with mental disabilities are placed, the situation in the field will be shown in detail in a special report.

Department for Protection of the Rights of Detainees / Prisoners



Bosnia and Herzegovina
Border Police

Number: 17-07-04-3-3583-35/16

Date: 28 October 2016

**MINISTRY OF HUMAN RIGHTS AND REFUGEES OF BOSNIA AND HERZEGOVINA
S A R A J E V O**

SUBJECT: Recommendation by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the Information is being sent-

REF: Your ref: 07-17/13 dated 12 October 2016

With regard to the recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) under the Report on monitoring in BiH adopted at the 59th meeting of the Council of Ministers on 6 June 2016, we are informing you that, with a view to having a full picture of the situation in the field of treatment of persons deprived of liberty, we have taken measures to align the official rules regarding the conditions of detention, treatment and their accommodation with the Criminal Procedure Code.

The director has issued a decision to appoint a working group to draft Guidelines on the Treatment of Persons Deprived of Liberty by BiH Border Police, which is working intensively on the development. After the adoption of the above instructions, we will implement activities to review the state of equipment and premises for accommodation of persons deprived of liberty and to find out funding options for equipping the premises for accommodation, i.e bring the equipment in line with CPT's recommendations.

Sincerely yours,

DIRECTOR
Chief General Inspector

Zoran Galić

CC:

1x addressee

1x archives

NOTE:

The answer, i.e. activities carried out and the end result pursued, relate(s) primarily to section 5. Material conditions (equipment in room for persons deprived of liberty).



Ministry of Security of Bosnia and Herzegovina

Number: 05-14-1-4633-6/16

Sarajevo: 22 October 2016

**MINISTRY OF HUMAN RIGHTS AND REFUGEES OF BOSNIA AND HERZEGOVINA
S A R A J E V O**

SUBJECT: Information is being sent-

REF: Your ref: 07-37-1845-16/13 dated 13 June 2016

With regard to the letter under reference number and date above, we are informing you that we have reviewed the Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment and Punishment (CPT) adopted at the 59th meeting of the Council of Ministers on 6 June 2016 and transmit it to the State Investigation and Protection Agency attached to our letter No. 05-14-1-4633-6/16 dated 11 August 2016 for their information and action, as required, concerning the report, setting the deadline for submission on 3 October 2010.

We note that we have not received any answer concerning the report so far.

At the same time, we did not transmit the report to the BiH Border Police as your letter under reference number and date above indicated that you had sent the letter to the BiH the BiH Border Police.

MINISTER

Dragan Mektić

CC:
State Investigation and Protection Agency

I N F O R M A T I O N

about the measures and actions taken by the Ministry of the Interior of Sarajevo Canton for the implementation of recommendations given in the 11 March 2016 report to the Bosnia and Herzegovina Government on the visit by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment

On 11 March 2016, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter: CPT) adopted a report to the Bosnia and Herzegovina Government on the visit to Bosnia and Herzegovina in the period from 29 September to 9 October 2015.

In addition to findings concerning the current situation, the CPT gave in its report a set of recommendations related to taking measures and actions by the police and other agencies on the implementation of and compliance with the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

Conduct of the police officers towards persons deprived of liberty in any form, in addition to the provisions of international conventions, is governed by relevant provisions of the Criminal Procedure Code of the Federation of Bosnia and Herzegovina, the Law on Minor Offences of the Federation of Bosnia and Herzegovina, the Law on Police Officials of the Sarajevo Canton, the Instruction on the Treatment of Persons Deprived of Their Liberty No. 01-245/14 dated 12 May 2014, the revised Instruction No. 01-225/16 dated 4 May 2016 and other regulations and rules governing this matter.

The Internal Control Department (hereinafter: the Department) of the Professional Standards Unit (hereinafter: PSU) is an organizational unit that is independent in its work and that, in accordance with the procedure prescribed in the Law on Police Officials of Sarajevo Canton and the Rules of Procedure of the Professional Standards Unit (a EUPM model which is accepted by all police agencies in the Federation of Bosnia and Herzegovina), takes relevant measures and actions and conducts internal investigations (internal procedures) upon petitions filed which, among other things, relate to the existence of reasonable doubt that a breach of duty has been committed, which constitutes illegal, improper and unprofessional conduct of police officers during arrest, bringing in, detention and other official actions, and especially when the breaches involve physical abuse.

If there is reasonable suspicion that such actions of police officers constitute a criminal act, the Internal Control Department sends the entire materials to the Criminal Investigation Department, which informs the competent prosecutor who, after evaluating the (non)existence of the elements of a criminal offense, orders that the authorized official persons should take further actions and measures.

So, there are regulations setting out a modality of cooperation of the Police and the Ministry of the Interior of Sarajevo Canton with the competent prosecutor's office, which is in force.

In accordance with the applicable regulations, procedures of reporting illegal actions of police officers, including against persons deprived of liberty, both by citizens (in writing, by phone, an anonymous report, e-mail, in the form of a letter through the boxes for complaints set to receive complaints in all organizational units of the Ministry) and by police officers and other employees of the Police and the Ministry (in addition to all the above-mentioned forms, through the so-called KOI (CIR) - criminal - intelligence reports).

Directly and through the departments and units, the Police Administration of Sarajevo Canton monitored the implementation of the 2016 Plan and Program of Professional Training of Police Officers of the Ministry of the Interior of Sarajevo Canton, as well as the Plan and Programme of Training, Professional Development and Education of Civil Servants and Employees of the Ministry of the Interior of Sarajevo Canton 2016.

Mutual reporting by the Federation Police and the Ministry of the Interior of Sarajevo Canton - Police Administration is prescribed in the Instruction on Mutual Reporting on Developments in the Field of Public Security by the Federation Ministry of the Interior and the Cantonal Ministries of the Interior on Issues of Interest to the FBiH No. 09-16-08 dated 26 July 2007. In this context, untimely delivery of the information about future CPT's visits should not occur in the future.

The records kept by the Internal Control Department as well as by the organizational units of the police were checked regarding the two cases mentioned in Section 13 i) and ii) of the Report (II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED) and it was concluded that complaints about physical abuse by police officers were not filed.

The records kept by the Fourth Police Headquarters, Criminal Police Department of Hadžići, were checked and the records of persons deprived of liberty showed that on 19 September 2015, A. was arrested due to suspicion that he committed a criminal offense under Article 362 of FBiH CC. The person was released from premises without any complaints and objections. There are no persons registered to have been deprived of their liberty in the Hadzici Police Station AOR On 20 September 2015.

After checks, it was found that on 11 January 2015, police officers of the Criminal Police Department, in cooperation with the Cantonal Prosecutor's Office of Sarajevo, where the investigation was led by a prosecutor, carried out a campaign of combating organized crime (crimes under Articles 287 and 342 of the Criminal Code of F BiH), during which several persons were deprived of liberty and handed over to the Cantonal Prosecutor's Office of Sarajevo on 20 January 2015. The persons deprived of liberty in the aforementioned campaign did not report any unlawful conduct that could be linked to police officers.

When it comes to electronic video recording equipment, the Ministry of the Interior of Sarajevo Canton does not record questioning of people. The Ministry of the Interior of Sarajevo Canton has six rooms with audio - visual recording equipment, which are intended for interviewing minors, in accordance with the Law on Protection and Treatment of Children and Juveniles in Criminal Proceedings of F BiH, which was published in official Gazette of FBiH No. 7 dated 29 January 2014, which took effect as of 5 February 2015. Additional measures and actions are taken to upgrade the equipment, so that it can be used in practice, but for the time being, interviews with minors are recorded at the

premises of the Cantonal Prosecutor's Office of Sarajevo, in the presence of a professional.

The Ministry of the Interior of Sarajevo Canton is committed to taking steps to follow the generally accepted standards and procedures of police interrogation.

The Police Administration consistently respects and implements the above-mentioned regulations, with respect to the notification of the rights of persons deprived of liberty in a language they understand, the right to inform a close relative or third party of their choice, access to a lawyer, the right to a doctor, as well as other issues relating to the treatment of persons deprived of their liberty.

When it comes to the minor offenders, the presence of a lawyer is mandatory from the first interrogation by prosecutor or authorized official, as well as throughout the proceedings, which is provided for in Article 77 of the Law on Protection and Treatment of Children and Juveniles in Criminal Proceedings.

In the Police Administration of the Ministry of the Interior of Sarajevo Canton, 100 (a hundred) police officers have successfully completed training on the acquisition of specific knowledge and continuous professional education and training of persons working on youth delinquency and legal protection of children and juveniles in the Federation of Bosnia and Herzegovina and received a Certificate issued by the Federation Ministry of Justice.

In accordance with the Protocol on Cooperation of Cantonal Prosecutor's Office of Sarajevo Canton and the Ministry of the Interior of Sarajevo Canton, on 2 June 2015, a course of training for police officers of the Criminal Police Department was held by prosecutors of the Cantonal Prosecutor's Office of Sarajevo Canton in improving cooperation between prosecutors and authorized officials of the Police, in the application of Criminal Code, with a special focus on a review of specific practices (treatment of persons deprived of liberty, recognition of people and objects, search of persons and objects without warrant and with warrant, confiscation of property and proceeds of crime, investigation, special investigative actions, organized crime, questioning of minors/victims, opening and inspection of seized objects and documents etc.).

The training was completed in the preceding period, so the total number of police officers of the Criminal Police Department, the Traffic Investigation Department and the Internal Control Department who underwent this training is 220 police officers. This type of specialized training will additionally contribute to the quality of police work on clarifying all crimes, especially the most complex crimes, and is one of forms of implementation of CPT's recommendations that police operatives and crime inspectors should perform their duties in accordance with the relevant provisions of the Criminal Procedure Code of the Federation of Bosnia and Herzegovina. he European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) to report to the,

In addition to the above-mentioned shortcomings, the Preliminary observations of the Chairman of the Delegation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and paragraph 30 of the Report to the Council of Ministers on the visit by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment states that, during the visit to the

Department of Detention of Persons Deprived of Their Liberty of the MoI of Canton Sarajevo, the premises where detainees were kept were as follows: *"The six cells at Novo Sarajevo Police Station (measuring between 6.5 and 10.5m²) had been renovated in the course of 2014 but already showed signs of poor maintenance (i.e. mould and damp on the walls). The toilets were also not partitioned. Further, there was limited access to natural light and the artificial lighting was insufficient."* Further, „executive summary" of the report (page 5) states that *"The material conditions in most of the police holding facilities visited by the delegation were unfit for holding persons overnight (lack of access to natural light, poor ventilation, deplorable hygienic conditions and an absence of mattresses and bedding).*

In accordance with CPT's recommendations, measures have been taken to eliminate these shortcomings. So, in the period from 8 August 2016 until 20 October 2016, a selected construction company carried out construction works on the reconstruction and rehabilitation of the premises of the Department for Detention of Persons Deprived of Their Liberty of Sarajevo Canton MoI, during which they performed the following works:

- removing of old dilapidated plaster from the walls (removing of mould and mildew),
- painting of the premises of the Department,
- replacement and installation of adequate ventilation and air conditioning system, air and water system,
- replacement of worn-out beds (wooden palaces) with adequate beds,
- replacement of worn-out floor in the room of duty officer of the Department,
- Remediation of dilapidated sanitary annexes - concrete sinks.

New mattresses, pillows, pillow cases and waterproof protective covers with rubber band for mattresses, which Department put into operation for the use by persons deprived of their liberty after the rehabilitation and reconstruction.

Considering that, in the premises of the Department, cells *have "limited access to natural light and the artificial lighting was insufficient"*, it was concluded in conversation with experts that the replacement of existing bulbs with LEDs can solve this issue because the LEDs 12 W give the light as bright as ordinary light bulbs of 100 watts and that was what was done in the above-mentioned period.

Activities are underway for finding funds for construction works for the separation of cell toilets.

In relation to paragraphs 31 and 32 of the CPT's Report, we emphasize that the Instruction on the Treatment of Persons Deprived of Their Liberty stipulates that any person deprived of liberty will be under appropriate supervision and will be treated in a lawful and humane manner and under conditions which will not harm their health, i.e. they will not be subjected to physical or verbal abuse, inconveniences and negative publicity. Housing for persons deprived of their liberty will always be kept clean, with clean sheets, lit and heated, depending on weather conditions, and regularly ventilated. Detained person will be provided with one free meal every 8 hours, which will be of good quality and tasteful. Each cell of the Detention Department will be supplied with toilet paper, soap, paper towels and plastic glasses of drinking and, at his request, a person deprived of liberty will be provided with toothpaste and toothbrush.

These procedures are fully applied by police officers of the Department for Detention of Persons Deprived of Their Liberty, Operational and Communication Center of the Ministry of the Interior of Sarajevo Canton.

In order to support CPT's recommendation that the principles of treatment of persons deprived of their liberty in accordance with European conventions and national legislation must be regularly be reiterated to police officers and to achieve that perpetrators of any form of physical or other forms of abuse are prosecuted in pursuant to relevant legal provisions, the Ministry of the Interior of Sarajevo Canton will continue including the teaching topics that boost implementation of the above-mentioned recommendation while they prepare future planning documents on professional training and development of police officers.

In this context, we will continue planning special training in professional questioning techniques for police officers, especially for investigators of special criminal police departments and an emphasis will be placed on modern, scientific criminal investigation. During the training, a special emphasis will be put on an approach based on the information and physical evidence, which will reduce reliance on information and confessions obtained by questioning for the purpose of obtaining evidence.

In addition, in the context of continuous training for all police officers from the rank of "policeman" to the rank of "junior inspector", around 1350 police officers attended classes and were tested in the field of policing, including segments of human rights.

The police commissioner makes periodic instructive dispatches and memos ordering the organizational units and police officers how to act, specifying concrete measures and actions, whereby he clearly conveys and gives clear support and promotes CPT's recommendations of zero tolerance of abuse of persons deprived of their liberty and compliance with the aforementioned European Conventions relating to the protection of human rights (especially the rights of persons deprived of their liberty), as well as the above-mentioned domestic legal framework.

Among other things, the instructive dispatch states that any form of ill-treatment of persons deprived of their liberty including, in addition to physical and verbal abuse, racist behavior, threats and psychological abuse, may constitute a breach of duty and elements of crime which will be processed or prosecuted in accordance with the law and by-laws and statutory procedures in order to determine possible disciplinary and criminal liability.

Sarajevo, 27 October 2016

Number: 04-49-3036/16
Sarajevo, 27.10.2016. godine

BOSNIA AND HERZEGOVINA
MINISTRY OF HUMAN RIGHTS AND REFUGEES
n/r g-đe Minke Smajević

Subject: Answers to questions of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

With regard to your letter 07-37-1845-16/13 dated 13 June 2016 respecting the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) in the period from 29 September to 9 October 2015, we are providing the following answers:

1. On 28 July 2016 the Federation Minister of Justice issued decision 04-49-3039/16 on the appointment of an inter-ministerial working group to prepare proposals to solve the accommodation of persons who were found to be mentally incompetent when they committed a crime and on whom the measure of involuntary placement in a medical institution was imposed. The working group consisted of representatives of the Federation Ministry of Justice, the Federation Ministry of Labour and Social Affairs, the Federation Ministry of Health and the Federation Ministry of Culture and Sport

In accordance with the conclusions of the working meeting held on 21 October 2016 in the Public Institution Psychiatric Hospital of Sarajevo Canton, which was attended by representatives of the Federation Ministry of Health, the Federation Ministry of Justice, the Ministry of Human Rights and Refugees, the Ministry of Health of Sarajevo Canton and hospital management, the hospital director, Muhamed Ahmić, delivered a notice stating that the hospital would admit 7 forensic patients from Tuzla Prison when the competent court serves a decision on the measure, with an invoice specifying costs of hospital treatment. (Paragraph 73)

2. The Federation Ministry of Justice will continue in the coming period to deliver a clear message to all staff at prisons that the ill-treatment of prisoners is not acceptable and that means of restraint are used only in exceptional circumstances as provided in the Law. Any indications of ill-treatment will be properly investigated and result in appropriate sanctions, either disciplinary or criminal. (Paragraph 38)

3. The Federation Ministry of Justice will order that the Zenica Prison management should draw up a revised sentence plan together with the prisoner upon their placement in the high-security Pavilion IV (including as regards persons sent there under PIT), setting out the objectives and goals to be achieved in order to

successfully reintegrate into the general prison population. (paragraph 41).

4. Putting together an inspection report, the Federation Ministry of Justice ordered that Zenica Prison should develop a purposeful regime for inmates placed in the high-security Pavilion IV (including those under a reinforced individual treatment measure (PIT)) with a view to providing them with a diverse range of activities. In this context, a multidisciplinary team to work with this prison population has been established. (Paragraph 42)

5. On 26 October 2016, the Zenica Prison management sent letter 01-12-9131/16 with a report, made after verification by the doctor, regarding three persons found in the Pavilion IV during the visit by CPT's delegation, with an emphasis on the state of one of the three convicts who were on the premises.

The report says that all prisoners are under neuropsychiatric treatment, i.e. therapy and regular checks by psychiatrist, including three prisoners found in Pavilion IV.

The convicted person described as the most vulnerable was placed in Pavilion IV in accordance with a decision made by the Correction and Treatment Department and he himself also requested to be isolated because he cannot adapt to other prison population.

The inmate did not suffer from chronic urinary incontinence but had wetted intentionally in other pavilions in rooms with 3-5 convicted persons who had been bothered about it and made objections, sought some actions to solve the problem. None of the convicted person had wanted to be in the same room with this person, which he probably had predicted. This was probably the main reason for placing him in Pavilion IV. He is a long-term drug addicts who lives without any income, has no parents or community care. His health improves in prison because he receives the necessary NPS, therapy from the area of internal medicine and all necessary control and examinations. Shortly after the visit that person completed his prison term and was released from prison. The prison staff, in coordination with out-of-prison stakeholders, seeks to provide adequate health and social care, in accordance with their capabilities, in terms of his acquiring skills for life outside prison because they are aware that, once released, such people are left to themselves and are at the bottom of the social ladder. (Paragraph 43)

6. The Federation Ministry of Justice reviewed the current staffing levels at all the prisons and prepared a proposal for the Federation Government regarding new recruitment of 50 members of the security service and the professional staff. (Paragraph 45)

7. Last year, the Federation Ministry of Justice organized a number of seminars relating to training and certification of staff working with juveniles. More than 600 people from the police agencies, centres for social work, mediators, lawyers and prison staff who work directly with juveniles were certified. In the coming period, a regular training programme for prison staff in order not to rely solely on co-operation and programmes of the Council of Europe for the organization of seminars on key competences for prison staff. (Paragraph 46)

8. The Federation Ministry of Justice will take measures to improve the state of repair of furniture and hygienic conditions at the remand sections in accordance with the House Rules; particularly with regard to programme of maintenance of the cells, hygienic conditions, standards of maintenance, lighting and other important

conditions for ensuring optimal conditions during detention. (Paragraph 56);

9. The Federation Ministry of Justice enacted the following by-laws prescribed by the new Law on Protection and Treatment of Children and Juveniles in criminal proceedings:

- Rulebook on Disciplinary Responsibility of Juveniles Serving Institutional Correctional Measures or Juvenile Imprisonment (FBiH Official Gazette 10/15)
- Rulebook on the Application of Corrective Measures of Special Obligations Towards Juvenile Offenders (FBiH Official Gazette 10/15)
- Training programme for staff working with juveniles.
- At its meeting held on 4 February 2015, the Federation Government adopted the Decree on the Application of Correctional Recommendations for Juveniles and the Federation Ministry of the Interior adopted the Rulebook on the Implementation of the Measure of Police Warning on 16 November 2015. (Paragraph 57).

10. On 9 February 2016, juveniles from Tuzla Prison were transferred from Tuzla Prison into the newly built Educational and Correctional Facility of Orasje. The Educational and Correctional Facility is designed to house 58 juveniles. It consists of six buildings of area of 3000 m². Each building has two floors. There are six furnished rooms upstairs with a bathroom and a common living area in which juveniles may use a fridge and other electrical devices. Further the Facility has sports facilities, classrooms, hospital and restaurant. There is a plan for the future to build a gym and workshops in order to fully create conditions for re-socialisation treatment. Currently there are 7 juveniles, four members of the Treatment Department and 12 members of the security service. (Paragraph 58)

11. All staff working with juveniles will receive training in accordance with the curriculum for training in work with juveniles and be certified. (Paragraph 61)

12. The Federation Ministry of Justice will take measures to improve the situation in health care through:

- reinforcing activities of general practitioners in prisons, ensuring that the contracted general practitioners comply with the terms of contract
- supplying adequate quantities of medication, improving quality of medical records (Paragraphs 68, 70)
- developing a comprehensive strategy for the provision of assistance to prisoners with drug-related problems (Paragraph 72)

13. The Federation Ministry of Justice will take measures to improve the situation with regard to:

- respecting the dignity of the prisoners and visitors (Paragraph 79)
- publicising the three-tier complaints system and to encourage prisoners to use it (Paragraph 81)

Sincerely yours,

AUTHORIZED BY THE MINISTER
Secretary to the Ministry
Ajša Softić

1x addressee

1x archives



**REPUBLIKA SRPSKA
MINISTARSTVO PRAVDE**

Trg Republike Srpske 1, Banja Luka, tel: 051/339-535, faks 051/339-650, E-mail mpr@mpr.vladars.net

Number: 08.030/240-179/16

Date: 8 September 2016

**MINISTRY OF HUMAN RIGHTS AND REFUGEES
SARAJEVO**

SUBJECT: The report of the Ministry of Justice of the Republika Srpska with regard to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), is being sent

In connection with the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), put together after a visit to the Ministry of Justice and correctional institutions of the Republika Srpska in the period from 29 September to 9 October 2015, we are providing herein answers to the comments and recommendations of the Committee.

Further, we are informing you that the Ministry of Justice transmitted copies of CPT's report, immediately upon receipt, to correctional institutions in Banja Luka, Doboј, Istočno Sarajevo, Foča and Bijeljina for comments and, in that sense, this report is an agreed response of the institutions visited and the Ministry of Justice of the Republika Srpska.

Comments on the report are given by numbered paragraphs relating to CPT's specific comments or recommendations, as follows:

Paragraph 83

In connection with CPT's statement that "Foča Prison remains the only high-security prison in the RS", we want to emphasize that this statement is not correct. Namely, Article 251 of the Law on Execution of Criminal Sanctions defines Banja Luka Prison and Bijeljina Prison as high-security prisons.

Paragraph 84

Based on the recommendations of the Report, all institutions were checked for the alleged ill-treatment of prisoners and detainees. On that occasion the governors had interviews with heads of Security Services and security staff working in direct contact with prisoners and detainees. Based on the information received there is an impression that some prisoners and detainees gave wrong information to the CPT delegation. We note that each newly admitted prisoner or detainee is immediately informed about the applicable regulations regarding the prison rules. Further, there is a possibility of filing complaints to be examined in the regular procedure through the mailbox that is set up for this purpose in the ward for prisoners.

In the previous period, according to the prison staff training plan, training courses were organized for all employees in topics covered in the European prison rules, standards of the CPT and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. Conflicts are resolved without the use of means of restraint, which is evident from the existing documentation kept for a longer period of time.

Checking the official records kept in Banja Luka Prison for detainees while in the Detention Unit and inspecting the personal file of the detainee who complained about ill-treatment by security officers, we found that the detainee was isolated in the padded room in the period from 15 April 2015, 5:45 pm to 16 April 2015, 1:00 pm. The Ministry of Justice of the Republika Srpska and the competent District Court of Banja Luka were informed about the placement in letter No. 08/1012 / 248-1903 / 15 dated 16 April 2015. We enclosed with the letter copies of official records of police officers who were on duty that day, as well as the statements of the detainee and other detainees (three persons) who were placed in the same room with the detainee.

All allegations about abuse on 16 April 2015 are not true but are a false testimony of the detainee who was in the Detention Unit for a longer period of time before the disputed situation. During his stay in the Detention Unit the detainee was moved from one room to another on several occasions because he could not get along with other detainees. The reasons for moving were numerous, including the detainee's constant taking his roommates' things away without asking them, what they often complained about. Further, he presented himself as someone who had acquaintances in and connections with senior officials of the Ministry of the Interior, by whose orders he allegedly was staying and working secretly at the Detention Unit in order to clarify some mysterious crimes, which additionally made other detainees feeling uneasy and nervous.

Of course, these were untrue allegations and so were the allegations about officers' beating him because, on 15 April 2015, after throwing a tray with food, the detainee was taken away from the room in which he stayed without the use of force to another room, where a thorough search of person and things was carried out, which is the standard procedure when a detainee is being isolated to a special room, and considering that the person had been mentally unstable previously, he was isolated in a room without dangerous objects in order to avoid any potential self-harming and he was kept without any clothes on only in the room where the search was carried out, after which, accompanied by police officers of the Detention Unit and the prison duty officer, he was taken in a room without dangerous objects with all his clothes on. Next, the person in question was not placed in the padded cell as long as he alleged but less than 24 hours

and he had had difficulties with his lungs before this and he could not contract pneumonia after having been placed in the padded cell for a period of 19 hours.

We note that the governor with his assistants from the security service visited the detainee on 16 April 2015, so it is clear that the prison management regularly visits the Detention Unit and gets in direct contact with detainees. That same morning he had a conversation with the detainee, eyewitness statements were taken both from detainees and officers and, based on them, on 16 April 2015 a notification was sent to the Ministry of Justice and the District Court of Banja Luka, so the detainee returned to his detention cell on the same day.

As for the allegations in the report that the detainee got pneumonia after having been placed in the padded cell, i.e. after 21 April 2015, we must note that the medical records of detainee contains a medical report made by a specialist doctor, on 13 April 2015, who had already diagnosed bronchopneumonia and prescribed an appropriate therapy.

It is clear from these documents that the case is described only on the basis of statements of the detainee and that documentation in the detention file kept in the Detention Unit, which absolutely proves that the statements of the detainee are untrue, was not inspected at all. The report of the Committee stated that it was "one detainee" and therefore we believe that it is essential to have a full insight into the entire case, because the information is not true and facts were not fully established.

We would like to take this opportunity to inform you that the Detention Unit in Banja Luka Prison works professionally, that its trained staff provide services complying with legislation and that they treat the detainees humanely and with respect for their human dignity, preserving their physical and mental health, taking into account the maintenance of necessary order and discipline in the institution.

Paragraph 85

Article 40 of the House Rules in the Institutions for Execution of Detention (Official Gazette of the Republika Srpska 35/11) provides that the isolation of prisoners lasts only as long as there are reasons for isolation and that the measure of placement in a separate room can last up to 48 hours at one time. Further, any isolation of detainees shall be notified to the competent court. Based on the above, we believe that the way of regulating this matter is in accordance with CPT's recommendation because, in practice, most often the isolation lasts less than 24 hours.

Paragraph 86

We believe that the CPT delegation had an incomplete insight into the event that occurred on 29 June 2015 (not on 30 June 2015, when the situation was already assessed), as the report calls it „the case of the collective request (molba)“, and that without full consideration of written and video documentation, they judged that it was "over-reaction". We note that it was a one-sided interpretation of this situation because statements were taken only from a couple of convicted persons. The Banja Luka Prison Management is available at any moment for a review of the entire case, whereby it will be possible to, by reviewing the video and written statements by officials and convicted persons present the following facts:

- It is an absolutely false assertion that the convicted person "instead of taking one pancake, he took two ones and was not able to explain in writing his behaviour because of poor knowledge of the Serbian language as he spent most of his life in Germany." On the contrary, it was an illicit trade in pancakes (multiple pieces), which were made and sold to other inmates, of which we have multiple statements, intelligence gathered and video footage.

- Further, we have a video of interview of policemen B. with C., a convicted person, which show that one cannot claim in any way that the policeman slapped the convicted person. We note that the statements of officials or convicted persons do not contain any proof that someone saw his slapping the convicted persons.

- We have a video of unauthorized gathering of information, entering and leaving the rooms (entry of persons into other people's rooms is not allowed) as well as more than 20 statements of convicted persons that signed the petition even though they had no complaints about the work of members of the security service. Some of them admitted they had signed because they feared the reaction of "informal group" collecting signatures, so they signed for fear for their own safety.

- Further, we have official records of officers and statements of prisoners, as well as the statement of the leader of 'informal group' that he said and threatened that he would "cut the policemen into pieces".

- It was found from interviews with individual prisoners that the intentions of "informal group" were far more serious than what was seen but for reasons of their own safety they were not ready to write about them in the statement.

- Analysing the "informal group" looking at all the evident facts, it was noted that the group consists of multiple recidivists, that these prisoners were previously recorded as organizers of prison riots and they were mostly convicted persons who received disciplinary punishments earlier and some of them also received special security measures, such as placement in the Department of Enhanced Supervision and Treatment Programme.

In addition to comprehending all these activities, it is important to note that discussions were held with all possible instigators of this illegal way of organizing and writing of so-called „petition“ and only after reviewing all the material, a number of convicted persons was placed on 30 June 2015 in the Enhanced Supervision and Treatment Programme Department (all the prisoners were informed about the reasons immediately after isolation, personally and individually), and then a proposal for disciplinary action was given.

We notified the Ministry of Justice of the Republika Srpska about the activities surrounding this entire situation by writing and sending the Security Risk Assessment of 10 July 2015.

Paragraph 87

As we noted in the preceding comment, we believe that it is necessary in this case for CPT delegation to review the entire documentation and, only after consideration of the overall situation, to acquire a comprehensive understanding of this case.

We would also like to inform you that Banja Luka Prison continuously works on strengthening discipline and order, with mandatory information about what is happening around us, and creating safe living conditions of inmates and working conditions of prison officers, with mandatory respect for basic element of dynamic security that includes personal relations and attitude towards others (prisoners) and efficient performance of tasks by prison officer.

In support of the above, we give your quote from Paragraph 88 "Further, at Banja Luka Prison both sentenced and remand prisoners interviewed by the delegation indicated that episodes of inter-prisoner violence were rare and that staff intervened promptly."

Paragraph 89

Pursuant to the Law on Special Regime of Imprisonment (Official Gazette of the Republika Srpska 30/10), this Department takes convicted persons who, during the execution of their prison sentence, threaten to significantly affect the safety of the institution, break the rules of order and discipline, as well as convicted persons who are found to be the subject of failed measures earlier taken in their treatment.

The purpose of placement in the Department is to prevent all forms of behaviour of convicted persons aimed at undermining the formal system and work organization of prison, through the application of specific methods and forms of work.

The placement in the Department is not considered a disciplinary punishment.

It is evident from the above-mentioned legal provisions that placement in the Department is applied as the last resort after application of all legal actions and procedures in order to preclude and prevent those types of behaviour that significantly affect the functioning and security of the institution, as well as other prisoners in the institution. Further, we especially want to emphasize that this is about the application of treatment and the implementation of treatment programmes, which was passed by an expert team in the institution but not about any type of rights of convicted persons.

In practice, this means the following: the prisoners who do not comply with or substantially violate laws and rules of conduct, who jeopardize the safety of other persons and the institution, or behave aggressively or without respect for the integrity and dignity of prisoners and officials, according to legal obligations, are treated in a way that, in order to overcome these types of behaviour, forms of intensified individual work of professionals of the treatment service and enhanced supervision in the areas where they reside and work are applied. Further, there is disciplinary responsibility provided for in cases where certain conditions are met, which are also determined by law. In addition, the management of the institution has the following measures available: placement in the department with enhanced supervision for up to three months, as well as the administrative measure of isolation, for up to two months, which may be imposed on a convicted person whose behaviour persistently disturb order and discipline, jeopardize security of the institution and poses a serious danger to people and property in the institution, with prior opinion given by the prison physician.

Unfortunately, there is a number of convicted persons whose behaviour could not be corrected by using the above-mentioned methods and measures and there is a need for

the application of this method of treatment. We note that, making a proposal for placement in this department, the institution changes the treatment programme, and it is determined on the basis of a joint opinion of the treatment service and the security service. After all, even a superficial examination of the personal records/files of prisoners placed in the department shows that, prior to placement, almost all of them were disciplined more than once, that they received disciplinary penalties, that they were placed under enhanced supervision and accommodated in the Enhanced Supervision and Treatment Programme Department and they often received a measure of isolation.

Due to the foregoing, we cannot agree with the CPT's statement reading "The CPT rejects this approach since it opens the door to an administrative abuse where prisoners denied the possibility of appeal to the measure imposed by the institutional administration, which can be arbitrary." Firstly, placement in this Department is decided on by the Minister of Justice on the proposal of the head of the correctional institution, rather than the prison management, as put by CPT. Further, there is no possibility for a decision on placement to be "arbitrary", as in the proposal involves the expert team of the treatment service and the security service, i.e. persons who are competent to provide this kind of opinions and suggestions. We see no reason that the overall procedure is described as an „administrative abuse".

As to the question of the right to appeal to an independent authority against the imposition or extension of placement, it is not provided by law primarily because it is not about establishing any kind of rights of convicted persons, but it is about a change of treatment programme. The participation of the convicted person in the situation described is expected primarily in his own participation in the implementation of treatment programme and correction of all forms of behaviour that are in conflict with the established rules, which is why the duration of placement is limited (six months) in order to encourage convicted person to behave acceptably. Of course, it is implied that an expert team monitors and supervises the convicted persons' behaviour in the Department, based on which the extension or suspension of placement is proposed.

Paragraph 90

With regard to the observations and recommendations that the Special Regime Department in Foča Prison should offer prisoners placed in the Special Regime Department a wider range of purposeful activities (education, vocation, work, recreation and sport) and more opportunities for contacts with the outside world, with open visits being the rule and closed visits only being imposed for security-related reasons, we emphasize that so far all prisoners placed in the Special Regime Department of Foča Prison in pursuance of Article 5 of the Law on Special Regime of Imprisonment (RS Official Gazette No. 30/10) have been offered various activities during their placement there.

Namely, in Foča Prison, based on the proposal by expert team for each inmate having received the measure of placement in this Department, an individual treatment programme is developed for treatment of the convicted person while in the Department. The individual treatment programme is made on the basis of a detailed analysis of risk factors and the needs of the convicted person (security, personality, health needs, sports and recreational and occupational and therapeutic purposes). Accordingly, all prisoners

placed in the Department are entitled to stay outdoors for two hours and to additional sports and recreational activities outdoors, in the sports ground with the use of exercise equipment for two hours. Further, these prisoners have an opportunity to participate in daily activities organized within the Special Regime Department and they are: fine arts, chess and table-tennis section. Another point we want to make is that all the prisoners who are placed in the Special Regime Department are offered occupational activities such as making souvenirs of paper in origami technique or painting souvenirs or working in so-called economic jobs in the Department (working in the laundry facilities or cleaning the Department). Currently there are three convicted persons employed in making souvenirs of paper in origami technique, while three convicted persons are employed in washing of bedding and clothing, and cleaning the Department. Other prisoners have not expressed a desire to work. It is important to stress that all of these activities, except for staying outdoors, are organized in groups of 2 to 4 convicted persons in accordance with security risk assessments, so that the convicted persons can associate one with another and communicate. Taking into account all of the above, convicted persons have from six to eight hours of activities outside their living unit a day. Furthermore, all prisoners have access to TVs with a variety of programs, cable operators, and the institution provides daily newspaper as well as the possibility of using the prison library so that they can further occupy themselves in their free time.

When it comes to contacts with the outside world by prisoners placed in the Special Regime Department, we emphasize that they are arranged in accordance with Article 11 of the Law on the Special Regime of the Imprisonment and Articles 50 and 53 of the House Rules in the Special Regime Department (RS Official Gazette 38/11). In accordance with these regulations, prisoners get in contact with the outside world by correspondence, telephone calls and visits. According to the cited provisions, prisoners placed in the Special Regime Department are entitled to **at least** one phone call a week with their family members, and **at least** one regular visit per month for a period of 60 minutes. According to the schedule of daily activities of convicted persons in the Special Regime Department, the regular telephone calls of convicted persons are scheduled for Mondays and Fridays, i.e. twice a week, and the two phone calls last 10 minutes (one telephone conversation with his family and a telephone conversation with a lawyer) and, in addition, at his request, the convicted person is granted the emergency use of the phone to talk with family members or a lawyer. When it comes to contacts with the outside world through visits, all prisoners placed in the Special Regime Department are entitled to at least one regular visit by family members and at least one visit by a lawyer once a month for 60 minutes and, at his request, the convicted person is granted an extension of regular visit (more than 60 minutes) as well as emergency visits by core and extended family. Visits to prisoners in the Special Regime Department are carried out in three rooms, which are located in the lobby of the Department, of which two are used for visits to prisoners when security surveillance and control by members of the security service is necessary, while the third room is used for family visits when security surveillance and control by members of the security service is not necessary.

Paragraph 92

With regard to CPT's recommendation that " a prisoner is informed in writing of the reasons for placement and of any extension of that placement in an enhanced supervision unit, and is guaranteed the right of appeal to an independent authority ", as in the case of placement in the Special Regime Department, we note that this is about the application of treatment and the implementation of treatment programmes, which was passed by an expert team in the institution but not about any type of rights of convicted persons.

Further, regarding the statement in the report that, in the case of the group of persons placed in the Enhanced Supervision and Treatment Programme Department in Banja Luka Prison on 30 June 2015 in the context of the "petition" affair, the decision on their placement was only taken three weeks later on 21 July, we want to emphasize that these allegations are not true. At the proposals of the treatment services and the security services the convicted persons were placed in the Enhanced Supervision and Treatment Programme Department on 30 June 2015 on the basis of the Order by the governor, which was issued on that day, which can be verified by examining the personal file of the convicted persons.

Paragraph 95

With regard to the observations and recommendations that prisoners placed in enhanced supervision units be provided with a purposeful regime, which includes a diverse range of activities, as well as to enable them to have contacts among prisoners and with the outside world, we note that, for each inmate that is placed in accordance with Article 141 of the Law on Execution of Criminal Sanctions of RS (RS Official Gazette 12/10, 117/11, 98/13, 44/16), Foča Prison develops an individual treatment programme determining treatment of the convicted person for the duration of the special measure for maintaining order and discipline.

The individual treatment programme is made on the basis of a detailed analysis of risk factors and the needs of the convicted person (security, personality, health needs, sports and recreational and occupational and therapeutic purposes). Accordingly, the convicted persons are enabled to go into a room where they can do sports and recreational activities, table tennis and so on. Free activities consist in using prison library, printed publications and daily newspapers provided by the institution, as well as in watching television programmes of cable operators or via DVD. The convicted persons stay outdoors in groups of 3 or more convicted persons, the groups being determined on the grounds of security and the wishes of prisoners in terms of socializing with other prisoners. Further, we point out that prisoners placed in the Enhanced Supervision and Treatment Program Department are entitled to stay outdoors for a period of two hours a day behind building No. 1, while convicted persons who do not involve security risks do one hour of additional sports and recreational activities during their stay outdoors in the park in front of building No. 1. In determining the occupational therapeutic activities we make sure to take into account security risks over which these prisoners are placed in this Department, and now three convicted persons are employed in cleaning the Department or, maintenance of the park and storage of prisoners' equipment.

When it comes to contacts of prisoners with the outside world, the prisoners are entitled to receive at least once a month a regular visit by members of core family that lasts at least 60 minutes, as required by Article 85, paragraph 1 of the RS Law on Execution of Criminal Sanctions and Article 62, paragraph 3 of the House Rules for Serving Prison Sentences (RS Official Gazette 36/11). Depending on the classification stimulating group of the convicted person, the governor can grant more frequent regular visits and prolonged visits. In addition to this, the governor can grant emergency visits, i.e. visits by persons who are not core family members of the convicted person. All prisoners who received a special measure of placement in the Enhanced Supervision and Treatment Programme Department are entitled to a visit lasting from one to five hours, which depends on their classification stimulating group. It should be noted that some of the convicted persons keep their classification stimulating group even after placement in this Department (convicted persons who are placed in the Department at their request for reasons of personal safety etc.) and have visits in accordance with their groups (5 convicted persons who are currently in this Department have visits for 3 to 5 hours), and in justified cases they are granted emergency visits and so-called conjugal visits. As for communication by telephone, in accordance with Article 58, paragraph 6 of the House Rules for Serving Prison Sentences, all prisoners placed in the Enhanced Supervision and Treatment Programme Department are entitled to have one telephone conversation with family members and one telephone conversation with a lawyer for a period of 10 minutes per day. The telephone calls are made from phone booths installed in the premises of the Department. In addition to these regular telephone calls, the prisoners have a possibility of making emergency telephone calls to other persons, which are individually approved after an assessment of their justification in each particular case.

High risk prisoners are a minority group that is necessary to get special attention during imprisonment. In dealing with this category there must be clear procedures and criteria by which to assess the risk for each inmate individually. For these reasons and because of CPT's recommendations, the Correctional Institution of Banja Luka has taken certain actions in terms of improving performance of the Enhanced Supervision and Treatment Programme Department where mainly prisoners assessed as high risk prisoners are placed. Bearing in mind the above and the fact that it is very important to have an adequate programme of treatment activities, the Activity Plan and Programme of the staff in the treatment service has been developed in accordance with the Law on Execution of Criminal Sanctions of the Republika Srpska (Official Gazette of the Republika Srpska 12/10, 117/11, 98/13), delegated legislation based on the law, the recommendations of the Council of Europe and CPT standards. The Plan and Programme is aimed at introducing procedures to be followed by professional staff and consistency in daily activities, improving accountability for the actions while working with prisoners, achieving standardization and independence in the actions, transparency and efficiency, as well as at establishing a team work with this category of persons.

Renovation of the Department has led to the improvement of living conditions of prisoners, but also the working conditions of employees, and knowledge of the CPT's recommendations, the management of Banja Luka Prison has advanced certain segments of work with high-risk convicted persons and introduced some innovations in the work of employees, which is reflected primarily in a clearer definition of the term „risk prisoner“, high quality selection and training of employees who are in daily contact with this category of prisoners, in clarifying the criteria for deciding on the choice of correctional

measures and forms of correctional work, as well as in cooperation with the security service on the issue of adequate security risk classification which is constantly reviewed for each individual prisoner in the Department.

Individual therapy, cultural and educational work and organization of free time of the convicted persons is carried out in the Enhanced Supervision and Treatment Programme Department in accordance with organizational capabilities.

Further, the Guidelines on the Implementation of Daily Activities Schedule of Convicted Persons Placed in the Enhanced Supervision and Treatment Programme have been adopted and a regular cooperation between the heads of the security service and treatment services has been established with the aim of assessing of current risks and having successful coordination between the service. It is also important to note that the justification of convicted person's stay in the Department is reviewed every 3 (three) months by a multidisciplinary team of the treatment service and the security service and due care is taken to extend this special measure only in exceptional circumstances.

Paragraph 97

Regarding CPT'S observations that a convicted person, D., should be provided with a purposeful regime and a revised sentence plan should be drawn up to assist the prisoner to successfully reintegrate into the general prison population, we are informing the CPT that on 4 November 2016, the convicted person was placed in correctional collective number 21 and that ever since he has been participating in all the activities of convicted persons without any problems or compromising security.

Paragraph 100

With regard to the question of reconstruction of sanitary annexes in Banja Luka Prison, certain activities related to the project design and specification costs have already been taken. The institution addressed the RS Ministry of Justice with a request that the funds needed for reconstruction should be granted and once the funds have been granted the works required will start.

Paragraph 103

The allegation in the statement that "The health-care staff resources at Banja Luka Prison consisted of five full-time general practitioner..." is obviously a typing error in the translation, since Banja Luka Prison permanently employs one full-time general practitioner.

Regarding the recommendation that Foča Prison should hire an additional nurse, we note that the Rulebook on Internal Organization and Description of Jobs in Foča Prison no. 01-418 / 16 (Official Gazette no. 16/02 and 61/16) provides for 1 (one) doctor, 1 (one) dentist and 4 (four) nurses in the health service. All these are full-time jobs occupied, so they work in shifts 24 hours a day.

Paragraph 105

With regard to the observation and recommendation that injuries of newly admitted prisoners are not recorded properly, we emphasize that any violation that is observed at admission is recorded in the certificate of admission, which is made upon admission of a convicted person to serve a prison sentence. All prisoners who are admitted to prison make declarations citing all injuries on the body, when and how they were sustained and the officer in charge of admission makes an official note about admission, in which, among other things, he enters observations of visible physical injuries. All documents drawn up at admission are immediately forwarded to the health service to be placed in the medical file as an integral part.

In addition, the prison doctor examines the convicted person within 24 hours of admission. A health file/card is opened and includes the information on family medical history, personal medical history with diagnoses, allergies, surgeries and injuries, alcohol and narcotic addiction, weight, height and assessment of working capacity. If there are visible injuries on the prisoner, they are recorded in a special form with convicted person's statement of the character of injuries.

Any injuries sustained during the stay in the institution are entered in the medical file of the prisoner, as well as in a special protocol with the statement of the convicted person, recording the date of injury, the manner of sustaining the injury and a short description of the injury and any need for further specialist examinations.

Paragraph 106

With regard to the allegations that "there has been no improvement in relation to prisoners' medical confidentiality", we stress out that correctional institutions follow protocols and procedures prescribed by the competent authorities.

Regarding observations and recommendations about the fact that all referral letters were sent to the prison director for approval, we emphasize that only referral letters for treatment outside the prison are taken for approval by the director because, in accordance with Article 98, paragraph 2 of the Law on Execution of Criminal Sanctions, the final decision on sending a convicted person to a medical institution, on proposal by prison physician, is made by the director of the institute. These referral letters submitted for approval does not indicate a diagnosis, but only a code of disease that is known only to health workers.

With regard to the confidentiality of medical data of convicted persons, we point out that all medical examinations of prisoners are carried out in the prison infirmary. Members of the security service, which exercise control of and supervision over convicted persons do not attend the medical examinations, but they are out of hearing range in the hallway outside the prison infirmary, except in cases where medical personnel requires them for security reasons. Reports on convicted person's state of health are an integral part of the cumulative records of the convicted person and the state of health is one of the factors on basis of which convicted person's treatment is determined (placement in correctional collective, specific needs of the convicted person,

work schedules etc.). When a convicted person is transferred to another institution, the health card/file is concluded by the prison physician and packed in sealed envelope and as such forwarded as part of the complete criminal records.

Paragraph 107

The medical staff distributes medicines in Banja Luka Prison in the morning and afternoon and members of the security services only in the evening and, once the fourth medical worker has been hired and a round-the-clock shift system has been set up, the entire distribution will be taken over by the medical workers.

As for Foča Prison, distribution of drugs is carried out only under the control of the prison physician, where the time of distribution, the amount and type of drug as well as the signature of the convicted person are recorded in individual medical files.

The distribution of psychotropic drugs, which are taken as a regular therapy four times a day, is carried out at the premises of the infirmary, where all prisoners carry a cup with water and will be given by nurses who take care that the same and drank on the spot. The practice is that a convicted person opens his mouth for the health worker to check whether the medicines were really taken. This distribution is attended by members of the security services, who supervise the convicted persons.

Paragraph 108

Since a doctor was permanently employed in Foča Prison the management of medical records and files have significantly improved. A register of petitions and complaints lodged by convicted persons with explanations of their resolution was introduced. Specialist examinations performed in / out of Foča Prison are duly registered in the medical record of each convicted person stating the date of examination, diagnosis, treatment and recommendations to follow up.

Paragraph 109

In connection with the position of the Committee that often inmates diagnosed with a transmissible disease were not receiving the appropriate treatment, we note that the treatment of such diseases takes place under the control, recommendations and protocols of the competent specialized services, which are available to our patients, as well as all citizens.

In Foča Prison all newcomers are subject to screening of Hepatitis B and C and HIV. A medical specialist in infectious diseases of Foča Hospital is hired for these tests. There are records of the tests carried out with a list of all tested convicted persons, times of test and the results of the examination. With regard to the therapies for those diseases, it is administered in accordance with the recommendations of medical specialists.

Paragraph 111

As for the remarks that inmates diagnosed with serious mental health disorders were being subjected to indefinite placements in the padded cell, we point out that Article 140 of the Law on Execution of Criminal Sanctions provides that convicted persons who are assessed of being prone to perform or have already performed acts of self-harm, attacks on convicted person(s) or officer(s) can be placed in the padded cell with intensive supervision. The intensive supervision is performed as electronic and technical supervision organized by members of the Health Service and the Security Service.

Paragraph 7 of the Law provides that the measure lasts until there are legitimate reasons for it. So, the duration of the measure is not and cannot be determined in advance. It is assessed individually in each case.

With regard to the allegations in the report, we want to emphasize that it was the opinion of the prison physician and recommendations by medical specialists, a psychiatrist and a neuropsychiatrist, the basis on which it was necessary to place E. in the padded room with intense supervision at certain time intervals because of his specific health condition.

In order to have a complete understanding, we point out that E., a convicted person, was treated at Sokolac Psychiatric Hospital before sent to Foča Prison, in the period from 6 December 2013 until 15 May 2014. He was diagnosed with **borderline personality disorder with psychotic decompensation**. It is a pattern of occasional psychotic episodes with characteristics of deep and irreversible disorder - borderline, characterized by reacting with impulsivity, disturbed behaviour, aggression, hard coping with frustration, difficult interpersonal relations, disorder of rational personality actions and others. While serving his prison term, he has repeatedly expressed suicidal ideation, performed acts of auto-aggression and self-harm, made threats against and physically clashed with prisoners, refused to cooperate and uttered threats against officer and in every way obstructed the planned medical treatment.

Paragraph 115

With regard to the recommendation that prison staff should not carry truncheons inside detention areas and that prison officers should be properly trained in control and restraint techniques, we point out that Article 35, paragraph 7 of the Rulebook on the titles and ranks of members of the security service and conditions their acquisition, uniforms and insignia of the members of security service in correctional facilities (Official Gazette of RS 56/14) provides that members of security service carry an official belt with holsters, a truncheon, means of restraint and spray for personal protection when performing any official duties and tasks.

We think that, under conditions of collective serving of prison sentences, where prisoners have joint activities in the same area (spending time outdoor, sports and recreational activities etc.), complying with this recommendation of the Report on the Visit of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment could lead to a threat to both personal safety of members of the security service and security of other officers or convicted persons because members of the security service would not have a means of coercion to be able to

effectively prevent an attack or conflict involving a number of convicted persons or an attack with dangerous objects.

We note that, after the purchase of truncheons in Foča Prison at the end of 2009, the number of physical confrontations among convicted persons (in 2009 there were 17 physical conflict and in 2015 10 physical conflict or 70% less) significantly reduced, while in the same period, there were no cases of the use of coercive measures - truncheons by members of the security service.

We would also like to mention that the Rulebook on the security services, weapons and equipment, the use of firearms and other coercive measures, labelling equipment and vehicles in the correctional institutions of the Republika Srpska defines how, in order to fulfil his duties under laws and regulations, a member of the security service enforce his authorities, i.e. specifies the use of force. For the purpose of this Law and the Rulebook, means of coercion includes, inter alia, truncheons. The use of truncheons is permitted if the use of physical force is failing or does not guarantee success and lasts until the moment when the attack or resistance stops. A special statutory baton called "Tonfa" is used only by orders of the immediate superior in the case of severe breach of the peace and security in the institutions by a number of convicted persons at the same time and the same place.

Sincerely yours,

MINISTER

Anton Kasipović

Annex 1

PUBLIC INSTITUTION „SOKOLAC“ FORENSIC PSYCHIATRIC HOSPITAL

1 April – 31 December ACTIVITY PLAN

NO.	DESCRIPTION	RESPONSIBLE ACTORS	COMMENCEMENT DATE	COMPLIATION DATE	IMPLEMENTATION / STATUS OF ACTIVITIES AS OF 30/06/2016
1.	Hiring of medical staff needed for the Institution to begin operation (top priority is one medical doctor specialised in forensic psychiatry, 2 medical doctors specialised in psychiatry, neuropsychiatry)	Ministry of Health and Social Welfare and Forensic Psychiatry Sokolac	Activity is on-going	30/12/2016	<p>Activity is on-going.</p> <ul style="list-style-type: none"> - Public competition opened for one medical doctor specialised in forensic psychiatry and two medical doctors specialised in psychiatry / neuropsychiatry for BiH and the Republika Srpska, - Memorandum concluded with the Clinical Centre of the Republika Srpska for employment of a medical doctor specialised in psychiatry / neuropsychiatry for a year, - Statement ensured and signed by two retired medical doctors specialised in neuropsychiatry, committed themselves to work in the Sokolac Forensic Hospital full-time for a year, - Approval given by the relevant Ministry for employment of two retired doctors specialised in psychiatry / neuropsychiatry - Consent given by a retired medical doctor specialised in forensic psychiatrist of specialists to provide technical support and assistance for the launch of the

					hospital, - On-going contacts with PHI Sokolac Psychiatric Hospital to implement a proposal of the Hospital to transfer two doctors specialised in forensic psychiatrist and 8 nurses and medical technicians, as well as with other health institutions in the region,
2.	Development and adoption of Procurement Plan	Director and his associates and the Board of Directors of the Forensic Hospital	Activity is on-going	Activity completed	Activity completed
3.	Approval of the procurement plan	RS Ministry of Health and Social Welfare	Activity is on-going	10/04/2016	Activity completed
4.	Approval of the Statute and the Rules on Internal Structure and Job Description	Ministry of Health and Social Welfare	Activity is on-going	20/04/2016	Statute approved, the Rules approved, activity is on-going
5.	Preparation of tender documents for the purchase of food products, hygiene products, fuel and other goods and services	Legal Affairs Associate	10/04/2016	15/04/2016	Activity completed
6.	Approval of the tender documentation	RS Ministry of Health and Social Welfare	15/04/2016	25/04/2016	Activity completed
7.	Preparation of procurement notices	Legal Affairs Associate	25/04/2016	30/04/2016	Activity completed
8.	Publication of procurement notices	Legal Affairs Associate	03/05/2016	09/05/2016	Activity completed
9.	Conducting of public procurement proceedings	Procurement Commission	09/05/2016	15/07/2016	Activity is on-going, Opening of bids will take place on 14 July 2016.
10.	Preparations for cancellation of open competition for vacancies earlier published and preparations for publishing of new open competition for vacancies	Director and Legal Affairs Associate	15/04/2016	30/04/2016	Activity completed
11.	Publication of cancellation of open competition for vacancies earlier published and publication of new open	Legal Affairs Associate	03/05/2016	10/05/2016	Activity is on-going

	competition for vacancies				
12.	Conducting of open competition proceedings for recruitment: selection and recruitment	Recruitment Commission	10/05/2016	30/06/2016	Activity is on-going
13.	Installation and start of operation of IT and other equipment, development of necessary programmes, installation of necessary telephone lines etc.	Director and his associates	10/05/2016	30/06/2016	Activity is on-going
14.	Adoption of necessary buy-laws and normative acts, plans and other regulations	Director, the Board of Directors	10/05/2016	30/06/2016	Activity is on-going
15.	Completion of activities to increase the price and the costs of travel, care and treatment of patients and the start of introduction of new prices	Director and RS Ministry of Health and Social Welfare	Activity is on-going	31/07/2016	
16.	Certificate of fulfilment of requirements for carrying out the business activity	RS Ministry of Health and Social Welfare	Activity is on-going	15/07/2016	
17.	Providing financial resources lacking (through subsidies, grants, donations or revolving credit)	Director, the Board of Directors, RS Ministry of Health and Social Welfare and RS government	Activity is on-going	31/07/2016	
18.	Training before the start of work implementing the curriculum	Director and his associates	01/07/2016	31/07/2016	
19.	Equipping the library: purchase of books, journals and other required literature	Director and his associates	01/07/2016	31/07/2016	
20.	Procurement of drugs and necessary materials for therapy	Procurement Commission	01/06/2016	31/07/2016	
21.	Work organization of the Forensic Hospital	Small management team	01/06/2016	30/07/2016	
22.	Admission of patients according to reception plan and launch of operation of the Forensic Hospital	Management and the Medical Service Department	31/12/2016		

Number:

Date: 3 October 2016

Dear,

**COUNCIL OF MINISTERS OF BIH
MINISTRY OF HUMAN RIGHTS AND REFUGES**

SUBJECT: Report of the Ministry of Health and Social Welfare of the Republika Srpska concerning the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) is being submitted

In connection with the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), put together after the visit to BiH in the period from 29 September to 9 October 2015, we are providing herein answers to the comments and recommendations of the Committee. Comments on the report are given to the numbered paragraphs relating to specific comments or recommendations, as follows:

Paragraph 35

The CPT recommends that the authorities of Bosnia and Herzegovina take proactive steps to ensure that the requisite staff are recruited to enable the Special Hospital for Forensic Psychiatry in Sokolac to become operational as soon as possible.

In the previous period the Ministry took a series of measures and activities aimed at reconstruction, equipping and management of Public Institute of Forensic Psychiatry of Sokolac. The deadlock in the process of admitting patients occurred at the stage of recruitment of highly educated health workers: doctors of medicine with sub-specialising in forensic medicine. The Ministry asked the Institute to develop an Action Plan for the creation of conditions for the admission patients and the Institute developed it and began the implementation¹.

Paragraph 71

The CPT recommends that all prisons systematically screen prisoners for Hepatitis B and C, HIV and tuberculosis. Further, uniform availability of curative treatment for Hepatitis C and long-term substantive treatment for HIV should be introduced at all prison establishments.

The prevention, diagnosis and treatment of hepatitis B and hepatitis C and tuberculosis and HIV / AIDS in correctional institutions is carried as joint effort of health institutions, correctional institutions and non-governmental organizations, with the support of the Ministry of Justice of the Republika Srpska and the Ministry of Health and Social Welfare of Republika Srpska. For the last five to seven years the projects to improve the control of tuberculosis and HIV / AIDS, which were funded by the Global Fund to Fight AIDS, Tuberculosis and Malaria and implemented by UNDP have been providing support to these activities. Diagnosis and treatment of Hepatitis B and C and HIV / AIDS in correctional institutions in the Republika Srpska are free of charge.

Preventive activities related to suppressing and combating the spread of hepatitis B and C, and HIV / AIDS in correctional institutions in the Republika Srpska are carried out using free rapid testing of inmates in cooperation with the "Victoria" Association.

¹ 1 April - 31 December 2016

If this testing has resulted in positive medical findings and the physician of the correctional institution assesses so, the patient is transported under police escort to the Hepatology Infirmary of the Infectious Diseases Clinic of the University Clinical Centre of the Republika Srpska (RS UCC). In this clinic, the patient is examined; a medical report and recommendations for the diagnosis and possible treatment are written down. In case of acute infection with hepatitis B and C, the patient is hospitalized at the Infectious Diseases Clinic (a police escort is discreetly present at the ward of the Infectious Diseases Clinic all the time). If the patient has started antiviral therapy and, in the meantime, he happens to go to prison, the therapy is not interrupted, but continues, so that the drugs are administered and the patient comes under police escort to the Infectious Diseases Clinic for treatment. Further, there were cases where the court ordered the postponement of imprisonment, so firstly he received antiviral treatment of hepatitis C and then went to serve his prison sentence. Chronic forms of hepatitis do not require treatment in hospital, so the treatment of chronic hepatitis C is done when the patient has finished his sentence.

Also in case of the prevention, diagnosis and treatment of persons infected / affected by HIV / AIDS in correctional institutions in the Republika Srpska, activities similar to the above-mentioned activities are carried out. So far, there have been no cases of infected / affected by HIV / AIDS in correctional institutions in the Republika Srpska.

Paragraph 102

The CPT reiterates its recommendation that the RS Ministries of Health and Justice jointly take the necessary steps to improve prison health-care services, taking due account of the recommendations contained in this report.

The Ministry's active participation in the creation and development of strategic documents² for the development of the health system in the Republika Srpska and of umbrella legislation³ governing health and social welfare contributed to creating an environment for the provision of quality health care to people who are serving sentences in correctional institutions. The Ministry is aware of the fact that the creation of a legal and sub-legal framework is only a good prerequisite for well-functioning health care in correctional institutions and that establishment of closer cooperation with the Ministry of Justice, correctional institutions, medical institutions and the civil sector is one of the conditions for the improvement of the current service⁴.

Paragraph 105

The CPT recommends that the RS authorities ensure that medical assessments and the recording of prisoners' injuries (including newly admitted prisoners) are conducted in line with the requirements set out in the recommendation in paragraph 65 above. Further, dedicated registers on traumatic injuries should be introduced at all prison establishments.

The activities are defined in the Activity Plan for the improvement of health care in prisons of the Republika Srpska.

Paragraph 106

The CPT reiterates its recommendation that steps be taken to guarantee confidentiality in accordance with the above precepts

² The Strategy for Drug Control and Elimination of Drug Abuse of the Republika Srpska for the period from 2016 to 2021. (Official Gazette of the Republika Srpska 56/16);

³ The Law on Health Care; the Law on Amendments to the Law on Health Care (Official Gazette of the Republika Srpska 18/99,58/01,62/01, 106/09, 44/15)

⁴ Activity Plan for the improvement of health care in prisons of the Republika Srpska.

The activities are defined in the Activity Plan for the improvement of health care in prisons of the Republika Srpska.

Paragraph 107

The CPT recommends that the distribution of medication by security staff at Banja Luka Prison be discontinued and performed instead by a qualified member of the health-care personnel. Further, procedures should be put in place to verify that the medication dispensed to prisoners is actually taken.

The activities are defined in the Activity Plan for the improvement of health care in prisons of the Republika Srpska.

Paragraph 109

The CPT recommends that the quality of medical recordings be improved at Foča Prison, in particular as regards the details concerning a complaint, diagnosis or examination by a doctor.

Certain contents and services are given in the clarification in paragraph 71 above.

The activities are defined in the Action Plan for the improvement of health care in prisons of the Republika Srpska.

Paragraph 110

The CPT recommends that all prisons systematically screen prisoners for Hepatitis B and C, HIV and tuberculosis. Further, uniform availability of curative treatment for Hepatitis C and long-term substantive treatment for HIV should be introduced at all prison establishments.

In the previous period the Ministry took very important part in the fight against abuse of illicit drugs and in reducing damage caused by their abuse by working in parallel as member of the Commission for the Prevention of Drug Abuse of the Republika Srpska on designing the 2016-2021 Strategy for Drug Control and Combating Drug Abuse of the Republika Srpska and on the implementation of measures and activities on the treatment and re-socialization of narcotic drugs addicts. Through the Commission, the Ministry has established very good cooperation with the Ministry of Justice of the Republika Srpska and "Victoria" NGO in the implementation of several programs in correctional institutions. So, it worked with "Victoria" NGO for five years on the implementation of prevention programs in correctional institutions in the Republika Srpska (Banja Luka Prison-Tunjice, Doboje, Bijeljina, Istočno Sarajevo-Kula, Foča, Trebinje). The training program included 310 prisoners, 19 police officers from the Republika Srpska, 17 trainers, who were trained in the implementation of HIV prevention programs in prisons of the Republika Srpska, 30 peer trainers / prisoners who were trained in HIV prevention in the Republika Srpska. The Ministry supported the implementation of the projects implemented by "Victoria" and funded by UNDP BiH. They enabled access to health care and psychosocial services available outside prison to drug addicts during and after their stay in the Correctional Institution of Banja Luka in order to achieve abstinence from drugs, reduce recidivism of criminal activities as well as reduce the risk behaviour related to HIV / AIDS, hepatitis B and C and other blood and sexually transmitted diseases. The project was implemented using the new methodology intended for creating modules with supporting documents, as well as training of prison staff and the development of a prison manual intended for prison staff. The project is the first project in BiH based on the new methodology with professional supervision.

The role played by the Ministry in the preparation of the 2016-2021 Strategy for Drug Control and Combating Drug Abuse of the Republika Srpska was the coordination of document drafting and procedure of document adoption by the National Assembly of the Republika Srpska (adopted on 23 June 2016).

The strategy is a strategic framework document giving guidelines for the activities of all governmental institutions, public institutions, civil society organizations and individuals combating drug abuse, preventing abuse and providing assistance to addicts, occasional drug users and families to overcome difficulties related to drug abuse. The strategy is a response of society in dealing with problems related to abuse of narcotic drugs and active approach to the maintenance and improvement of safety, health, justice, protection of freedom in society. It is based on the fundamental principles and values of the legal system of the Republika Srpska, as well as professional knowledge and research in this matter. The Strategy objectives are the preservation and improvement of public health and the prevention and reduction of drug abuse. The measures and activities should maintain a low rate of spread of illicit drugs within socially acceptable risk limits in order not to disrupt the traditional values of our society and threaten the security of the population. The strategy espouses the systemic development of a network of institutions and civil society, within which accessibility and availability of treatment, treatment, rehabilitation and social reintegration of addicts will be ensured, but also firm and consistent application and enforcement of legal measures against production and sale of narcotics.

One of the key fields of action is defined in the Strategy's Section 5.1. The reduction of drug demand and it is necessary to carry out the following activities:

- among young people, through programs of prevention, early detection and adequate treatment, rehabilitation and reducing the adverse consequences of drug abuse,
- addiction prevention in the workplace,
- treatment and psychosocial treatment, including treatment of addicts and measures within the penal system,
- reducing the damage caused by abuse of narcotic drugs,
- re-socialization and social reintegration of drug addicts,
- civil society activities.

Treatment and rehabilitation of addicts is carried out in an organized way within the institutions of the health care system, in accordance with modern knowledge and protocols known and recognized in the circles of medical profession. Treatment and rehabilitation services are provided by multidisciplinary teams of health professionals and psychologists, social workers, occupational therapists and other profiles. Opiate agonists (methadone, buprenorphine), regardless of the form of the drug, play an important role in the modern approach to the treatment of opiate addiction, with the use of other forms of psychosocial treatment. The programs of rehabilitation and re-socialization can be carried in and out of institutions of the health care system. One of the activities is Establish programs to train and inform the inmates in correctional institutions and measures are: early detection of abuse of narcotic drugs in correctional institutions, in cooperation with the Ministry of Justice of the Republika Srpska; the introduction of the program of opioid-substitution therapy (OST) in correctional institutions and testing for the presence of narcotics in the in correctional institutions; the establishment of an integrated information system for monitoring the occurrence and consequences of abuse of narcotic drugs through development and introduction of records of treated drug addicts in in correctional institutions.

Paragraph 112

The CPT recommends that the RS authorities take the necessary steps, through the appropriate channels, to ensure that remand prisoners receive appropriate and unimpeded access to specialist medical care whenever required and in particular in emergency and life-threatening situations. This decision should be a medical one and judges should have no right to counter such a decision.

The network of health institutions for hospital treatment coincides with the network of prisons and people who are in the correctional institutions can use hospital services both in emergency situations and for chronic diseases. The protocols of cooperation between health and correctional facilities can significantly improve and advance and, in the coming period, this will be the subject of work defined in the Action Plan for the Improvement of Health Care in Prisons of the Republika Srpska.

Sincerely yours,

MINISTER

Dragan Bogdanić, MD.

Appendix:

1. Action Plan of the Institute for Forensic Psychiatry of Sokolac;
2. Activity Plan for the improvement of health protection in Republika Srpska prisons.

Annex 2

ACTION PLAN FOR IMPROVING HEALTH CARE IN THE PRISONS OF THE REPUBLIKA SRPSKA

No.	ACTIVITIES	ACTORS	TIMEFRAME
1.	Preparatory meeting for drafting a plan to improve health care in the prisons of the Republika Srpska	Ministry of Justice of the Republika Srpska; Ministry of Health and Social Protection of the Republika Srpska	31/12/2016
2.	Review of the current state of functioning of health care in prisons in the Republika Srpska	Ministry of Justice of the Republika Srpska; Ministry of Health and Social Protection of the Republika Srpska; Prison establishments in the Republika Srpska; Institute of Public Health of the Republika Srpska	31/03/2017
3.	Drafting a plan to improve health care in the prisons of the Republika Srpska, in accordance with the recommendations and requirements of the CPT	Ministry of Justice of the Republika Srpska; Ministry of Health and Social Protection of the Republika Srpska; Prison establishments in the Republika Srpska; Institute of Public Health of the Republika Srpska; Medical institutions of the Republika Srpska	31/05/2017
4.	Implementation of the plan to improve health care in the prisons of the Republika Srpska, in accordance with the recommendations and requirements of the CPT	Ministry of Justice of the Republika Srpska; Ministry of Health and Social Protection of the Republika Srpska;	Continuous

Number: S/M-2-052-2161/15

Date: 3 November 2016

**BiH Ministry OF Human Rights and Refugees
Sarajevo**

Subject: *The visit of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), the report, observations are being sent-*

R e f . : Your letter ref.: 07-37-1845-16/13 dated 13 June 2016

With regard to the letter under reference number and date above, we are informing you that we have reviewed the Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment and Punishment (CPT) after the visit to Bosnia and Herzegovina in the period from 29 September to 9 October 2015.

In the following text for your convenience, we are going to quote comments from the report and at the same time give answers of the Ministry of the Interior of the Republika Srpska on the basis of the checks carried out in the relevant organizational units of the Ministry to which a specific comment applies, as follows:

CPT's COMMENT- „A person apprehended on the street in **Trebinje** early in the morning claimed that excessive force was used against him during the arrest and that, during his interrogation at the police station, he was subjected to punches and blows with batons by several officers. Further, he alleged that he was handcuffed to a cupboard and that when he had fallen asleep a police officer poured cold water over him and slapped him about the head. He was transferred to Trebinje Health Centre after the judicial police refused to take him into custody due to his injuries. The medical record noted: “Haematoma on the right forearm, 3 cm long, under the elbow, horizontal. Haematoma in the region of left ankle. Haematoma in the right hip region.”

CPT's COMMENT - „Several persons, interviewed individually and on separate occasions, gave detailed allegations of ill-treatment by the police in Bijeljina. For example, a mother and her son who were arrested together were subsequently interrogated in different offices in Bijeljina Police Station. The son claimed that he was repeatedly slapped, punched and kicked by police officers in the office over a period of three hours, and again the following day at the site of the alleged crime as a means of putting pressure on his mother to confess to the crime and to get him to admit that he was an accessory to the crime. The mother alleged that she had been put under pressure by the crime inspectors to make a confession, threatening to throw her son out of the window. Another person stated that after being apprehended at home late at night, he was brought to **Bijeljina** Police Station and placed in a large office at the end of the corridor on the ground floor of the station where he was subjected to repeated blows with a truncheon as well as punches and kicks by some five officers and told to make a confession. The following day he was taken to the local hospital but he remained handcuffed between two police officers and the doctor’s examination was limited to taking his blood pressure.“

RS Mol's COMMENT - Bearing in mind that in the previous two comments of the report no names or possible dates of deprivation of liberty are cited, it is not possible to check the specific allegations of the comments.

After examining the records kept by the Department for the Protection of Integrity and Legality in Line of Duty, it was found that, from 1 January to 31 December 2015, from the AOR of **Trebinje Public Security Centre**, the Professional Standards Unit of the Office of the Minister received and processed 5 petitions and one report filed by citizens and, from the AOR of **Bijeljina Public Security Centre**, the PSC received 7 petitions and one application for the institution of internal proceedings, which involved torture and ill treatment committed by police officers of the above-mentioned centres.

Following the completion of the internal proceedings, approved by the Complaints and Petitions Office, the communications were found as follows:

- 3 petitions were found well-grounded, after which disciplinary proceedings for determining disciplinary responsibility were instituted against six police officers,
- 5 petitions were found unconfirmed (the investigation established that there was not sufficient evidence to confirm or reject what police officers were accused of, i.e. what is stated in the petitions, or they were found unconfirmed until completion of the investigation by the prosecutor's office)
- 4 petitions were found unfounded,
- The application for the institution of internal proceedings was found unconfirmed,
- The report was found unconfirmed.

CPT's COMMENT - „Four young persons, one of whom was a minor, were apprehended in their hotel room in Banja Luka by armed police on 2 September 2015. The CPT's delegation interviewed the three young adults individually in separate cells in the remand section of Banja Luka Prison. All three stated that they were punched and kicked and subjected to truncheon blows by the arresting officers despite offering no resistance. Further, they alleged that at the police station the crime inspectors repeatedly punched them in the torso and slapped them around the head because they wanted to get them to confess to additional crimes. In addition, one of the young persons alleged that a pistol had been placed in his mouth and another one claimed that he had received several shocks from a hand-held electro-shock device with two contact points² and had been handcuffed to the radiator in the duty room of Banja Luka Police Station overnight.“

RS Mol's COMMENT - On 2 September 2015, at about 18.25 am, in Banja Luka, 83 A King Petar I Karadjordjevic St., the criminal offense of "Aggravated theft" under Article 232, paragraph 2, subparagraph 1 of the RS CC was committed in "Andrea" jewellery store, which is located in the "Equator" shopping centre and a damage of BAM 5,000 was caused to the owner of the jewellery store.

Operational work in the field by police officers of the Banja Luka Public Security centre resulted in the intelligence that the perpetrators of the above-described criminal offense were staying in „Prague" hostel. The checks showed that four individuals who matched the description of the suspects, all citizens of the Republic of Serbia, checked in the hostel the day before.

On the same day, at 19.00 hours, police officers of Banja Luka - centre Police Station, the Police Station for Interventions and the Police Station of Banja Luka – Laus found and arrested, in the premises of the hostel, the following persons:

1. F., national of Serbia,
2. G., national of Serbia,
3. Minor H., national of Serbia,
4. I., national of Serbia, **who tried to escape arresting, tripped, fell on the stairs and sustained injuries**

The means of coercion (means of restraint - handcuffs) were used on all the persons, while other means of coercion were not used. Then, all persons were put in official vehicles and brought to the official premises of Banja Luka Police Station, where they were advised of their rights, given deprivation of freedom paper recording the use of means of restraint, that the persons did not have visible injuries and that they did not complain of injuries or other ailments, except for I. who had injuries on his left leg and shoulder.

Suspects F. and G. were surrendered after arrest to police officers of criminal police of Banja Luka Public Security centre; followed by a criminal investigation and taking statements from them as suspects for that crime; then they were placed in the rooms for detention in Banja Luka PSC. With regard to the deprivation of liberty of minor H., the competent prosecutor of the Municipal Prosecutor's Office of Banja Luka was informed and she ordered that social workers of the centre for Social Work of Banja Luka should be informed and that, on 3 September 2016, the minor was to be heard in the premises of the Municipal Prosecutor's Office of Banja Luka. After arrest, accompanied by police officers, **suspect I. received medical assistance in the emergency service of the Health Centre of Banja Luka and the Clinical centre of Banja Luka**, because of his injuries, after which a statement was taken from him as a suspect and he was interrogated in the official premises of the Banja Luka. After the completion of interrogation, I. was placed in the rooms for detention in Banja Luka PSC.

On 2 September 2015, the premises of "Prague" hostel, which were used by suspects, were searched by order of the Basic Court of Banja Luka, during which they found stolen gold jewellery and other items associated with the commission of the criminal offense.

On 3 September 2015, suspects I., F. and G., along with a report on the criminal offense of "Aggravated theft" under Article 232, paragraph 2, subparagraph 1 of RS CC, were escorted and handed over to the District Prosecutor's Office of Banja Luka. On this occasion, records of the surrender of persons deprived of liberty to the Prosecutor were made, **where the injuries of suspect I. were recorded, while the other two suspects stated that they had not complained of health problems or injuries.**

Attached to the report, medical documents relating to the injuries of suspect I., who gave a statement about how he had sustained the injuries, were delivered to the Prosecutor's Office.

On the same day, the competent prosecutor interrogated in the official premises of the Prosecutor's Office minor H. as witness since it was established that he has not been involved in the crime. The hearing was attended by a police officer of the Banja Luka PSC and the Centre for Social Work OF Banja Luka, after which he was handed over to the Centre for Social Work.

During apprehension and criminal investigation of those persons until the moment of surrender of suspects to the Prosecutor's Office by police officers of Banja Luka PSC, measures, actions and procedures were taken in accordance with applicable laws and regulations and procedures. In the course of criminal investigation, no techniques of extortion of statements were used and the **suspects did not have any objections about work or conduct of police officers during their surrender to the District Prosecutor of Banja Luka.**

So, I. sustained injuries during apprehension when he tried to escape from "Prague" hostel and on this occasion he fell down the stairs and sustained injuries consisting of cuts on his left knee

and injuries contusions on his left shoulder and the head. These injuries were recorded in all certificates issued to the arrested person and the person sought medical help, which was granted on the same day and recorded, which the medical institution made findings and opinion of. The records of questioning of the suspect were inspected and I. confirmed the statements of the police officers of Banja Luka PSC concerning the manner in which he had sustained injuries.

Sincerely yours,

HEAD OF DEPARTMENT

Ljiljana Jokić



Трг Младих 10, 76 100 Брчко Дистрикт Босне и Херцеговине, централа: 049/233-200. Тел/факс: 049/216-779

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Интернет страница: www.policijabdbih.gov.ba Internet stranica: www.policijabdbih.gov.ba

File number: 14.07-04-2312/16
Letter number: 14.07-04.12-68491/16
Date: 25 October 2016

BOSNIA AND HERZEGOVINA
MINISTRY OF HUMAN RIGHTS AND REFUGEES

SUBJECT: Answers to questions under the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), is being sent.-

Ref: Your ref: 07-37-1845-16/13 dated 13 June 2016 and 07-37-1845-17/13 dated 12 October 2016

Dear,

With regard to the letters under numbers and dates above, we inform you that, by reviewing the Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment and Punishment, we found that Brcko District Police was not mentioned as an institution with failures or inhuman behavior towards persons deprived of liberty. Further, we inform you that Article 13 of the Law on Execution of Criminal Sanctions, Detention and Other Measures of the Brcko District of BiH (Official Gazette 31 dated 14 November 2011) provides that "Detention ordered by decision of the Court shall be carried out in special detention ward of prison or in a special institution for custody in one of the entities".

The BiH Brcko District Police Unit of General Police provides premises for people deprived of liberty that are provided with humane and safe conditions for persons deprived of liberty, in 2015, there were 92 persons, with respect for human rights international standards.

Further, we are informing you:

- that during apprehension, persons are immediately informed of the rights under the Law on Criminal Procedure of Brcko District of BiH, and therefore the right to a lawyer from the beginning of detention,
- that Brcko District Police continually inform all police officers that, in case of physical abuse of inmates, they can be processed in accordance with relevant regulations,
- that, in accordance with the Programme of professional training, Brcko District Police conducts regular training of police officers in order to perform their duties in accordance with the Law,
- that in investigations conducted under the supervision of the Prosecutor's Office of Brcko District of BiH, in order to prove the crimes, Brčko District Police relies on a number of expert testimony (DNA, mechanoscopy, dactyloscopy etc.), and in this regard, among other things, purchased polygraph and conduct polygraph test in order to prove the crimes,
- that since 2001 Brcko District Police performs audio - documentation of all testing in the

- official premises of Brcko District Police,
- that when it comes to minors, Brcko District Police act in accordance with the Law on the Protection and Proceeding with Children and Juveniles in Criminal Procedure of Brcko District of BiH and
 - that all police officers of Brcko District Police received training on human rights including the right of women and minorities for which they received certificates from international representatives (OSCE et al.).

Finally, we inform you that in the period from 2012 to 25 October 2016, the Brcko District Police Professional Standards Unit received four petitions - complaints of citizens alleging torture or abuse by police officers of the Brcko District Police. In all cases internal proceedings were carried out: two petitions were found as unfounded, one was found without sufficient evidence and one was found funded, where five police officers were found accountable for gross negligence and criminal proceedings are pending against two police officers.

Sincerely yours,

HEAD
BiH BRČKO DISTRICT POLICE
Goran Pisić, MA

CC:

1. Addressee
2. Files



Sarajevo University Clinical Center

OFFICE OF THE Director General

Director General

Sabija Izetbegovic, Prof. DSc

Sarajevo, 31 October 2016.

Number:

MINISTRY OF HUMAN RIGHTS AND REFUGEES OF

Bosnia and Herzegovina

MINISTER

Ms Semiha Borovac

Subject: Answer to letter No. 03-37-1845-17/13 dated 12 October 2016 from the Minister of Human Rights and Refugees, Ms. Semiha Borovac, in connection with the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

Dear,

After reviewing the report to the Government of Bosnia and Herzegovina on the visit to Bosnia and Herzegovina carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) adopted at the 59th meeting of the Council of Ministers on 6 June 2016, it is evident that the CPT's delegation examined the situation of persons placed in two psychiatric institutions in Sarajevo Canton. One of the institutions was the Psychiatric Hospital of Sarajevo University Clinical Center. We express our gratitude for this effort and feedback contained in CPT's report.

The CPT's delegation found a positive and caring approach by staff towards patients of the Psychiatric Hospital of Sarajevo University Clinical Center. It was noted that the staff responded appropriately in situations where they had several incidents of psychomotor agitation among patients. A particular emphasis was put on material conditions, which were less good. We also got some suggestions regarding treatment procedures and the unconditional application of the Law on the Protection of Persons with Mental Disabilities of the Federation of Bosnia and Herzegovina.

Once again, we express our satisfaction with the basically positive impression of CPT during its visit to our hospital and our gratitude for the feedback contained in CPT's report, which will be a priority in improving the quality and safety of the services we provide to our patients. Hoping that next CPT's visit will result in an absolutely positive report, we will make efforts in accordance with our possibilities to realize that.

Sincerely yours,

Director General
Sabija Izetbegovic, Prof. DSc

Number: 02.8-3049/16.

Sarajevo, 25 October 2016

**BOSNA I HERCEGOVINA
MINISTARSTVO ZA LJUDSKA PRAVA IIZBJEGLICE
BOSNE I HERCEGOVINE**

Attn: Ms Minka Smajevic

Ref: Your ref: 07-37-1845-16/13

SUBJECT: Report of the CPT, answers are being sent

Public Institution Psychiatric Hospital of Sarajevo Canton is the first accredited hospital in Bosnia and Herzegovina. The accreditation is the final outcome of a long and systematic process of improving quality and safety in the provision of health services to our clients. Further, it is a confirmation that the hospital, with all its departments and services, meets the optimal hospital standards and criteria. It should be noted that the accreditation process itself was carried out with own resources, which is another demonstration of the commitment of management and staff to improve quality and safety in the provision of health care services.

Living conditions and treatment

The CPT states in the report that the living conditions and treatment were generally of a decent standard. However, some shortcomings were recorded and so were some recommendations in order to rectify the shortcomings, which we are giving some comments on.

Recommendation 1:

- **Separate dormitories for male and female patients in the intensive care ward and that efforts be made to personalise the rooms.**

Answer: The intensive care ward is intended for stationary care of acutely aggressive, psychomotor agitated and suicidal patients who need round the clock supervision. This ward is adapted as far as possible to this purpose technically and organizationally, but it does not mean that the hospital management and professional panel as well as the Commission for the Protection of Persons with Mental Disorders have not recognized the nature of accommodation of patients in intensive care ward and further efforts will be made certainly to improve the living conditions, at least those that are within hospital's competence.

Recommendation 2:

- **an individualized approach - the drawing up of a treatment plan for each patient.**

Answer: Starting from the bio-psycho-social unity of all human beings or rather taking a holistic approach to the patient, work with our patients is based on a multidisciplinary team work. An individual plan of treatment is drawn up for each patient and is recorded in his personnel file – it is a binding part. The treatment coordinator draws up an individual treatment plan which is an integrative therapeutic protocol.

We certainly accept the CPT's recommendation that any individual treatment plan should be widened in the range of rehabilitative and therapeutic activities, which are otherwise carried out in everyday therapeutic work with patients. Patients in the intensive and semi-intensive care ward are under socio-therapy and occupational therapy adapted to their psychological state and capacities of the hospital.

Recommendation 3:

- **recruiting an additional psychologist and social worker to assist with the rehabilitation and post-release work.**

In this regard, we can say that a social worker has been recruited and there is a plan to recruit a psychologist in the coming period. We must point out that we need support, primarily financial support, by competent authorities when we hire new employees.

Means of physical restraint

Recommendation 4: develop a comprehensive policy on restraint and ensure that staff are properly trained to apply the policy.

Answer: The hospital has developed guidelines for treatment / procedures for the use of mechanical (i.e. fixation) and chemical restraint in the intensive care ward within the Quality and Safety Enhancement Policy.

5. Records:

A comprehensive register is kept for all instances of the use of mechanical restraint in the records of fixation and the medical file and the use of chemical restraint in the medical list.

Recommendation 6: Fixation

The hospital does not have a room for isolation of psychomotor agitated patients. Unfortunately, the hospital has not created technical conditions in intensive care ward so that the fixation of agitated patients can take place out of sight of other patients, neither has it created conditions for separate rooms for male and female patients in intensive care, which does not mean that the management and staff have not recognized this as a need for additional efforts to counteract these deficiencies for which we need, first of all, financial support of competent authorities.

6. Hospital has adopted the 2014-2018 Risk Management Strategy for the provision of health services, including the risk that can harm patients, staff, other persons and property.

Recommendation 8: Information given to patients / factual information

There are information / **brochures** published about the rights and responsibilities of patients, visually prominent and accessible. **House Rules** were written and prominently displayed in all wards and they are written in a concise manner, simple language, taking into account the needs of users and legal provisions. A **Patient Guide** is available for patients and their relatives to give information about admission, a path of the patient, discharge, types of services, mechanisms of legal protection during the hospital stay, the right to complain and appeal etc.

Statutory protection:

As for the legal safeguards regarding hospitalization, all legal provisions and procedures are strictly respected. Preference is given to voluntary against involuntary admission. Regarding the involuntary confinement in a medical institution, provisions of the Law on the Protection of Persons with Mental Disorders, as well as the **standards and criteria** for involuntary hospitalization, are strictly observed.

There is an issue of meeting the deadlines because court proceedings take too long. On several occasions, in their reports, the Hospital's Commission for the Protection of Persons with Mental Disorders and the Hospital's Expert Panel cited this issue and asked for its elimination. The hospital has recognized the issue of adequate accommodation and treatment of forensic patients (people with mental disorders who committed crimes in the state of mental incompetence) and is actively involved in resolving this issue.

Protection mechanisms:

The hospital has appointed the **Commission for the Protection of Persons with Mental Disorders** to be in charge of the monitoring of the procedures prescribed by the Law on the Protection of Persons with Mental Disorders of the Federation, especially when it comes to the confinement and involuntary hospitalization, respect for rights and advancing the treatment of persons with mental disorders in this hospital. At least once a year the Commission submits its report to competent ministries of health and, if necessary, they send their observations and recommendations to the Director of hospital and competent authorities outside hospital. Further, the hospital has appointed the **Commission for Patients' Complaints** on the basis of the Law on Health Care of the Federation, as another mechanism to protect the rights of patients, in charge of **resolving complaints / objections** of patients, then their review as a means of improving the quality and safety of care and a review of questionnaire for the measurement of patient satisfaction with health services and attitude of staff during their stay in hospital.

In the end, we want to highlight the commitment of management and staff of the hospital in fighting stigma and discrimination against people with mental disabilities, respecting their rights and protecting their dignity.

Pripremila
Đurđević Vesna, dipl. scr.


Director
Ahmić dr. Muhamed

MD specialized in neuropsychiatry

BOSNIA AND HERZEGOVINA
FEDERATION OF BOSNIA AND HERZEGOVINA
SUPREME COURT OF THE
FEDERATION OF BOSNIA AND
HERZEGOVINA
NUMBER: 070-0-Su-16-001263
Sarajevo, 17 November 2016



HIGH JUDICIAL AND PROSECUTORIAL COUNCIL OF BOSNIA AND HERZEGOVINA
JUDICIAL ADMINISTRATION DEPARTMENT

SUBJECT: A review of the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

After receipt of the above-mentioned report and your letter, we are informing you that we requested from lower courts (cantonal courts in the Federation of Bosnia and Herzegovina) submissions regarding the above-mentioned report in respect of the relevant recommendations related to the judiciary. Following the submissions of a number of cantonal courts, we made a review in relation to responsibilities of the Supreme Court of the Federation of Bosnia and Herzegovina, having in mind the Rulebook on Internal Court Operations and we are providing the following information:

Bearing in mind the contents of the report and the reports provided by a number of cantonal courts, we are emphasizing that a small portion of this report relates to the courts. Special attention is paid in this review to persons who are in custody. Persons who are detained until their committal to serve the sentence after the verdict has become final fall under supervision of the presidents of lower courts. This is regulated by Article 160 of the Criminal Procedure Code of the Federation of Bosnia and Herzegovina. From the statements of the presidents of courts, after a review of these reports, the Court concludes that the presidents of courts carry out visits to persons detained in correctional institutions located in the headquarters of cantonal courts in the Federation of Bosnia and Herzegovina. The presidents of courts have conversations with detainees, find out certain information from the detainees and whether the detainees are treated in accordance with the House Rules of Institutions for Serving Criminal Sanctions, Detention and Other Measures. In the opinion of this Court formed after a review, the presidents of courts put together records and reports on visits to detainees and send them to cantonal ministries of justice, who are obliged to provide conditions for detainees as prescribed in the House Rules. In addition cantonal ministers of justice, the records and reports are sent to judges of lower courts, where detainees make objections to the duration of criminal proceedings and also after the first instance judgment, if there are objections, they relate to how long it takes to prepare a written copy of the judgment, to transmit the entire file to a higher court and all other objections relating to their custody. During the visits to detainees by court presidents, they give proposals to the management of correctional institutions for certain improvements of detention in these institutions.

When it comes to detainees, special attention is given to their health, timely handling of diseased detainees by court administration and appropriate hospitalization on the proposal and recommendation by the prison doctor.

There are certain objections by persons who are in custody in this regard, particularly about urgency when it comes to their health.

Further, when visiting detainees, their religious needs and respect for their rights in this regard are taken into account. Particular attention is paid by the presidents of courts to whether detainees spend the statutory time walking outdoors, whether they receive regular visits, whether judges issue regularly, as required, approval of these visits and whether detainees have sufficient and necessary communication with persons in the manner prescribed by the House Rules.

After the review, one can recommend that more attention should be paid to persons who are in custody when it comes to their health status, i.e. more frequent visits by detention doctors. In particular, treatment of detainees in health institutions, when the prison doctor cannot provide the necessary health care services, could be improved if there is a need for it and if they request so and the detention doctor estimates it is justified. After reviewing these materials, we deem it would be necessary that the presidents of cantonal courts where the headquarters of correctional institutions are should have periodical meetings with senior staff of these institutions and the presidents of municipal courts with the aim of improving the living conditions of detainees and we should bear in mind the contents of the report on the visit to Bosnia and Herzegovina by the European Committee for the Prevention of Torture and inhuman or degrading treatment or punishment (CPT).

In accordance with Article 9 of the Rulebook on Internal Court Operations, the President of the Supreme Court of the Federation of Bosnia and Herzegovina has convened a meeting with the presidents of cantonal courts for 8 December 2016, which will be attended by presidents of departments of the Supreme Court of the Federation of Bosnia and Herzegovina and presidents of departments of cantonal courts. Besides other matters to be discussed at that meeting, some comments and recommendations from CPT's report, apart from what we have written in this information, will be tabled in order to improve the position of certain persons under this report in all segments, which refers to the courts in the Federation of Bosnia and Herzegovina.

President of the Supreme Court
of the Federation of Bosnia and Herzegovina

Milorad Novković

The above-mentioned report was sent to all lower courts in electronically.