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Response

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

from 9 to 16 October 2017

The Government of Montenegro has requested the publication of this response. The CPT's report on the October 2017 visit to Montenegro is set out in document CPT/Inf (2019) 2.

Strasbourg, 7 February 2019

Response to the recommendations in the Report of the European Committee for the Prevention of Torture and Other Inhuman and Degrading Treatment and Punishment (CPT) after third periodic visit to Montenegro

Montenegro would like to thank the European Committee for the Prevention of Torture and Other Inhuman and Degrading Treatment and Punishment (CPT) for its continuous engagement for the benefit of European citizens in all 47 countries of the Council of Europe.

Montenegro would like to reiterate, once again, its firm commitment to the implementation of all CPTs recommendations and opinions, and would like to underline its particular gratitude for the detailed report made in respect of the work of Montenegrin line institutions.

Montenegro is reaffirming its continuous dedication to the cooperation with the CPT and has the honour to forward the opinion of several line ministries and institution, along with the opinions of the Independent institution of the Ombudsperson/Protector of Human Rights and Freedoms of Montenegro.

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COMMENTS ON PARAGRAPH 12:

The Ministry of Interior pays particular attention to the legality of work, the application of police powers and respect for human rights, especially the rights of persons in custody. All conduct contrary to the law and the Code of Ethics of the Police, in accordance with the procedures, is sanctioned, which contributed to the strengthening of citizen-public trust in the Police, according to independent institutions' researches in 2017. It has not been established that the findings in the medical files of persons in custody who were admitted to the Institution for the Enforcement of Criminal Sanctions (IECS) in Spuž were the result of ill-treatment in the custody premises of the Police Directorate.

OPPINION OF THE INDEPENDENT INSTITUTION OF THE OMBUDSPERSON / PROTECTOR OF HUMAN RIGHTS AND FREEDOMS OF MONTENEGRO

The Protector has not received any complaints so far which involve the violation of the so-called "Hand-held electrical discharge device", nor did it find out about these allegations yet. Allegations concerning a person deprived of liberty 18 September 2017 correspond to the subject concerning individual M.A., for which the Protector ascertained that the inhumane treatment was done by the police officers, and recommended to the Police Directorate, Security Centre Bar to review their position on the lawfulness of the use of force by police officers during the detention of the M.A, and to initiate the procedure for determining the responsibilities of the police officers who, at this time, injured M.A.

The Protector also recommended that in the future all police officers, who participated in the same event, make individual official notes with a clearly described event and their personal observations (which should be expected to be somewhat different, given that they were in different positions and performed diverse actions) and a description of all undertaken actions, the means of coercion and

physical force used to overcome the resistance of a person who is supposed to become deprived of liberty, bring, detain, prevent self-defense or arbitrary removal from a particular place, and to refuse an attack from himself, another person, object or the space provided, so that the role of each participant can be properly and comprehensively perceived in the particular event. Finally, it is recommended to the Police Directorate to ensure consistent compliance with national regulations, ratified by international treaties and generally accepted by the rules of international law, which relate to the application of police powers.

COMMENT ON PARAGRAPH 13:

Appreciating the recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), the Ministry of Interior pointed out that the reference to the "cases from 2013" is not in the function of improving the situation-removing deficiencies. When it comes to suggestions, i.e. the recommendations on removal of non-standard objects in police premises, given in the previous period, Ministry of Interior informed that activities are being undertaken to ensure that the problem is completely solved.

COMMENT ON PARAGRAPH 15:

The Police Directorate is committed to checking and taking all measures and activities in all cases to conduct investigations that are more effective. The Police Directorate keeps a particular register of seized weapons and other items seized during the pre-investigation procedure, which are stored in separate warehouse premises. The aforementioned register is also kept in electronic form and is connected to each case separately. The Minister of the Interior in his public speeches pointed out that any ill-treatment and unprofessional conduct of police officers would be sanctioned as soon as possible. Practice showed that after every proven unprofessional act of police officers, a disciplinary procedure and a suspension procedure were initiated in a short time period.

COMMENTS ON PARAGRAPH 21 AND 22:

OPPINION OF THE INDEPENDENT INSTITUTION OF THE OMBUDSPERSON / PROTECTOR OF HUMAN RIGHTS AND FREEDOMS OF MONTENEGRO

In relation to the paragraphs 21 and 22, the Protector has already given opinions regarding the events, that is, the treatment of members of the Special Anti-Terrorist Police (SAJ) from October 2015, according to the citizen M.M. i.e. citizens M.B. and B.V. who were described in detail in the draft CPT report. Namely, the Protector, when seen chronologically and before the cited decisions by the Constitutional Court's, issued the opinion and the recommendation.

In the case of a citizen M.M, in which it was found that the treatment of police officers represents torture, the Protector is of the opinion the Ministry of Interior and the Police Directorate, without delay, should take measures to identify and determine the responsibilities of all police officers who, on October 24, 2015, applied excessive physical force and the police truncheon on the citizen M.M, inflicted serious bodily injuries and damaged his property. Thus the Ministry of Interior should take necessary measures to provide preconditions for identifying police officers, in accordance with the recommendations of the CPT, and the Police Directorate should ensure strict adherence of the national regulations, ratified international treaties and generally accepted rules of international law relating to the exercise of police powers. In the case of citizens M.B. and B.V. to whom human rights have been

violated by inhuman and degrading treatment, the Police Directorate, without delay, should undertake measures to identify and determine the responsibility of all police officers, who, on 24 October 2015, applied the physical force to the citizens of M.B and B.V, and ensure consistent compliance with national regulations, ratified international treaties and generally accepted rules of international law relating to the exercise of police powers.

COMMENT ON PARAGRAPH 22:

The Ministry of the Interior adopted the *Rulebook on the design, technical characteristics, type of material, manner of wearing and expiration dates for the official uniform and equipment of police officers for performing special tasks*, published in the Official Gazette of Montenegro, No. 77/17. Members of special police units, in accordance with the Rulebook, carry an inscription containing a combination of letters and/or numbers used to identify a police officer on the right front side in the level of the chest.

The former head of the Special Anti-Terrorism Unit was temporarily limited in performing the duty until the completion of criminal proceedings in accordance with the Decision of the Ministry of the Interior, 01 br. 150/16 - 37901/3 of 30 June 2017, according to Article 108, paragraph 1, item 3 of the Law on Interior ("Official Gazette of Montenegro", No. 44/12, 36/13 and 1/15). As the final verdict by the High Court confirmed the judgment of the Basic Court in Podgorica K.br.347/16 of 24 January 2017, the criminal proceedings were terminated, the Directorate for Supervision Affairs of the Ministry of the Interior adopted a Conclusion terminating the procedure of temporary limitation of performance of duties. The present conclusion was submitted to the Special Anti-Terrorism Unit and the Department for Financial, General and Auxiliary Affairs, on 25 September 2017, after which the police officer in question was reassigned to another post.

COMMENT ON PARAGRAPH 24:

A person deprived of liberty shall immediately be informed of the reasons for the deprivation of liberty in his own language or in a language, he understands. Police stations have documentation of notifying third parties, with the information whom the person contacted (name and phone number), as well as information that the person does not want to notify a third person about their deprivation of liberty i.e. their detaining. Notifying third parties i.e. the family is also possible after attempt, failure to communicate with a particular person. During the conduct of administrative supervisions, during 2018, it was noted that in all organizational units of the Police Directorate, the possibility of notifying third parties about deprivation of liberty, i.e. detaining was provided. Officials of the Directorate for Supervision Affairs of the Ministry of the Interior noted this with the implementation of a random sample method and insight into the files of detained persons. Also, the records of persons deprived of liberty and detained persons are kept in electronic form in the application "On-Duty Service", where in electronic form it is stated whether the detained persons notified someone and if yes whom.

COMMENT ON PARAGRAPH 25:

The Police Directorate, in accordance with the Criminal Procedure Code, ensures that all persons "without exception" have access to a lawyer from the moment of deprivation of liberty. In all organizational units where custody premises are located, there are Information Sheets in seven

languages. Any person who is deprived of liberty or is detained receives an Information Sheet, in which in Section 4 it is stated, "*You can hire a defense attorney of your choice*". Findings that certain police officers, who are said to have not notified a person deprived of liberty regarding their right to have access to a lawyer, will be checked by inspecting the records. In the Minutes on the securing of a person deprived of liberty and detained person No. 1, there is a separate section where the person deprived of liberty puts their signature regarding the receipt of the Information Sheet as well as the police officer who provided the person with the sheet.

COMMENT ON PARAGRAPH 26:

The Police Directorate, in accordance with the law, provides medical assistance to persons who requests it, as well as access to their lawyers and family members. In the station documentation - Minutes (Forms 1 and 2), records are kept, i.e., the visual description of the person's face is recorded (whether there are visible injuries on the face), and whether the person wants medical assistance. In all situations where a person expresses a request for medical assistance, the request is met and allows for a visit to the doctor, and if he expresses a wish, he can also visit a doctor of his choice (Pursuant to the Law on Internal Affairs, Article 25). He was informed of this right through the Information Sheet, which he receives upon arrival in the police premises. During the conduct of administrative supervisions, during 2018, it was noted that in all organizational units of the Police Directorate, persons in custody who requested medical assistance, were provided with the assistance. Officials of the Directorate for Supervision Affairs of the Ministry of the Interior noted this with the implementation of a random sample method, and by insight into the files of persons in custody. In addition, the records of persons deprived of liberty and detained persons are kept in electronic form in the application "On-Duty Service" where it is determined whether the person has requested medical assistance. The re-mentioning of the 2013 case is irrelevant.

COMMENT ON PARAGRAPH 27:

According to the provisions of Article 264 of the Criminal Procedure Code, an authorized police officer is obliged, during the deprivation of liberty, to make an official note regarding a person, which, among other things, indicates that the person is familiar with his rights (Article 5 of the CPC). The information sheet is delivered to all persons deprived of liberty, upon arrival in the custody premises and in a language, they understand. We emphasize that in front of the detention premises, the information sheet is prominent, in a visible place. In relation to the example from Danilovgrad, in which a Report states that half of the Information Sheets were not signed, such a statement will be verified, but at the same time we point out that a person deprived of liberty may refuse to sign that they received the Information Sheet.

COMMENT ON PARAGRAPH 28:

Written data on the rights of persons deprived of liberty are provided in seven languages: Montenegrin, English, Russian, German, Italian, Albanian and Romani.

COMMENT ON PARAGRAPH 29:

During the conduct of administrative supervisions in 2018, the Ministry of Interior noted that in all organizational units of the Police Directorate, a separate Register was kept on persons who, upon summon or voluntary present themselves at the police station. The Register is kept in the On-Duty Service. The Register only records when and in which manner persons presented themselves at the

police station, but not the information under whose order, at what time, for what reason, in what capacity (suspect, witness, etc.), to whom the mentioned person was handed over and when the person left the police premises. Records on persons brought or summoned for purposes of collecting information about criminal offences will be updated as soon as possible in accordance with the recommendation.

COMMENT ON PARAGRAPH 30:

In the Ministry of Interior, this type of record is carried out through the *Minutes on Securing Persons No. 2* in which every taking out and the bringing back of a person deprived of liberty from/to the custody premises is recorded.

<i>Date / time of termination of securing a person deprived of liberty</i>	<i>Personal signature of the Authorized Police Officer taking over the person from the on-duty service with remarks-without remarks</i>	<i>Date/ time of taking over the person</i>
<i>Person handed over to the prosecutor of the Basic, High- Special Prosecutor's Office in _____ on _____ at _____ h with remarks-without remarks (circle the chosen option). Signature of the prosecutor: _____.</i>		
<i>Person handed over to the investigating judge of the Basic, High- Special Prosecutor's Office in _____ on _____ at _____ h with remarks-without remarks (circle the chosen option). Signature of the investigating judge: _____.</i>		
<i>Person handed over to the Misdemeanor Court– Institution for the Enforcement of Criminal Sanctions (ZIKS) – other internal affairs authority (indicate) _____ on _____ at _____ h with remarks-without remarks (circle the chosen option). Signature of the officer taking over the person _____.</i>		
<i>REMARKS: Observed injuries and other circumstances when bringing or taking over and handing over the person (filled in by the processor of the case, the on-duty service, the court clerk, the prosecutor, the investigating judge, the misdemeanor court, the officer of the Institution for the Enforcement of Criminal Sanctions (ZIKS), the Authorized Police Officer and another authority that takes over the detained person).</i> _____ _____		

COMMENT ON PARAGRAPH 31:

OPINION OF THE INDEPENDENT INSTITUTION OF THE OMBUDSPERSON / PROTECTOR OF HUMAN RIGHTS OF MONTENEGRO

Concerning paragraph 31, the Protector emphasizes that the annual reports of the NPM indicate that during each visit, members of the NPM team are talking with the concerned people, among other things, about police conduct (wherever the people are situated). Furthermore, in 2015, NPM conducted a research under the heading MONITORING OF A POLICE DISSEMINATION WITH DISSEMINATE FREEDOMERS, respecting the rights of people deprived from their liberty in police custody detention

facilities and interviewing 86 persons in the Investigation Prison (that is, when they were no longer within the scope of the police, and fear of possible reprisals thus if they are freely talking about what happened in the police offices) of a total of 260 detainees who were at that moment in the Investigative Prison. The detainees interviewed were brought from the 14 centers and security departments of the Police Directorate (out of 21 in order to gain an impression of police action throughout Montenegro). Complete research and conclusions are published in the NPM Report for 2015 and available on the Institution's website.

On this occasion, it was discovered 11 respondents confirmed the use of force, physical force (shamrocks, bumps, etc.), while 6 stated that they were being persecuted verbally. They also gave their own opinion on why there was a physical force implied on them. However, by examining the medical records, it was found that there were no injuries recorded during the admission in the Investigatory Prison. Bearing all this in mind, we emphasize that the Protector, in the cited report in 2015, announced detailed discussion of this problem, that is, the examination of the state both in relation to police conduct, as well as in relation to recording and further treatment related to novelties about police delinquency (when mentioning people outside of the reach of the police officers).

Even though there is a constant work on the obvious problem, one should take into account that the NPR does not act upon complaints, and that all allegations of police installation are examined in the reactive mandate of the Ombudsman Institution - the Protection of the Rights of Persons Deprived of Freedom (in 2017, 17 complaints were processed by the police, out of which 5 were directly related to alleged torture or ill-treatment). We use the opportunity to point out that we are obliged to request the consent from the person in relation to the cases heard in media or NGOs. Regarding such cases, it happened that in two cases, which included media, people were concerned and refused upon consent. This may lead to the wrong conclusion that these allegations were not subject to the Protector's attention. The Protector concludes that it would be desirable for the CPT to define more precisely and in more details the recommendations, which the NPM could, in relation to what is recommended, improve.

COMMENT ON PARAGRAPH 33:

The Ministry of the Interior will eliminate the identified deficiencies and improve the hygienic and technical conditions of the detention premises. The location of the facilities in which the detention premises are located does not provide the prerequisites for organizing exercises on a daily basis. At least one cooked meal is provided to the persons within 24 hours, with respect to the religious affiliation of the person, i.e. the choice of meals. The time of serving the meals is recorded in station records.

COMMENT ON PARAGRAPH 37:

In February 2018, the Minister of Justice formed the Project team for the preparation of technical documentation and monitoring of the implementation of construction of the Special Health Institution in the Institution for the Execution of Criminal Sanctions, the Multifunctional Facility, the Registration Office and the Prison Camp. The Project team defined the terms of reference for the mentioned facilities and started the procedure for obtaining the Town-Planning and Technical Requirements for the locations on which the mentioned facilities will be built, so in this regard the Ministry of Sustainable Development and Tourism issued a Decision on Invitation to Tender for the Development of a

Preliminary Architectural Design for the construction of the four mentioned facilities within the complex of the Institution for the Execution of Criminal Sanctions, and on 11 September 2018 the Public Tender was announced, which will last 2 months. In addition, members of the Public Tender Committee were selected for the evaluation of received tenders.

The gross surface area of the facilities of the Special Health Institution with the internal atrium is planned to be 4500m². The concept of the design of the facility is such that four health units are planned, namely:

- shared rooms and the rooms for the accommodation of medical staff and clinics.
- the male ward for addiction diseases and mental disorders and serious behavioural disorders for 100 patients;
- the female ward for addiction diseases and mental disorders and serious behavioural disorders for 16 patients;
- the juvenile ward for addiction diseases and mental disorders and serious behavioural disorders for 14 patients;

As regards the construction of the Prison for the Northern region of Montenegro, which is also planned by the Strategy for the Execution of Criminal Sanctions (2017-2021), on 15 February 2018, the Government of Montenegro issued a Decision on the Preparation of Amendments to the Spatial-Urban Plan of the Municipality of Mojkovac, which provides for the examination of one location for the construction of the Prison for the Northern region of Montenegro. Furthermore, the Parliament of Montenegro adopted the Decision on Borrowing of Montenegro for 2018. Article 1 of the Decision states that Montenegro borrows funds from the Council of Europe Development Bank (CEB) for the needs of the Ministry of Justice for the construction of a capital facility - the Prison in the Northern region of Montenegro, in the amount of up to €15,000,000.00 Moreover, the Project "Construction of the Prison in the Northern Region of Montenegro" is also on the Single List of Priority Infrastructure Projects. The Minister of Justice formed the Project Team that submitted a project application "Preparation of the Preliminary and Main Design for the Prison in the Northern region of Montenegro - the Municipality of Mojkovac", on the occasion of the 20th call for the project preparation support (WBIF TA 20). The planned activities and the dynamics of infrastructure works are defined by the Action Plan for the Implementation of the Strategy for the Execution of Criminal Sanctions 2017-2021. (<http://www.pravda.gov.me/en/library/strategije>).

COMMENT ON PARAGRAPH 38:

In order to overcome the problem of overcrowding, the Management of the Prison in Bijelo Polje reconstructed three new facilities for accommodation of prisoners in order to expand the accommodation capacities. Owing to the opening of newly equipped rooms, the number of prisoners per room decreased. In addition, the Ministry of Justice has been implementing the policy of strengthening the system of alternative sanctions in Montenegro. On 20 October 2018, the Ministry of Justice successfully executed 709 community sentences since the beginning of the implementation of this alternative sanction in Montenegro. As for the prison sentence in the premises where the convicted person lives (home detention with electronic monitoring), 256 cases were submitted in total. The execution of the first sentences started on 28 December 2017 after all technical conditions necessary for their implementation had been provided. During the reporting period, 103 prison sentences were successfully executed in the premises where the convicted person resides, and the execution of 46 cases is currently underway.

COMMENTS ON PARAGRAPH 41:

With respect to the part of the report regarding the use of coercive means (tactical baton), in accordance with the Law on Execution of Prison Sentences, Fines and Security Measures, this coercive measure is applied only if the legally prescribed requirements for its use are fulfilled, where it is necessary to prevent the escape of prisoners, physical assault, violence, self-harm or material damage, as well as where the prisoner refuses to act in accordance with the oral or other order in compliance with this law and established international treaties, and where the use of physical force, pepper spray and electrical paralyzer is unsuccessful or does not guarantee success.

The competent services of the Institution for the Execution of Criminal Sanctions, in accordance with the Guidelines on Acting in Incident-Causing and Emergency Situations of 2015, undertake everything in order to reduce this negative phenomenon to the lowest possible level.

In the Institution for the Execution of Criminal Sanctions, within the Personnel Education Centre, the training curriculum was adopted for the employees of IECS for 2018-2019, who were assigned the security, treatment of prisoners, and health care tasks, as well as the tasks of the expert and managerial staff for the next two years. Special training sessions were also planned there for dealing with emergency and incident-causing situations, so in this respect the training sessions were conducted in the Personnel Education Centre at the Institution for the Execution of Criminal Sanctions on the topic "Performing Security Tasks".

In addition, in cooperation with the non-governmental sector, the European Commission and the Council of Europe, a number of training sessions were organized in the previous period:

- Applications of the European Convention on Human Rights in Prison Environment, with a focus on the best practices;
- CPT / SPT standards;
- Judicial practice of the European Court of Human Rights
- The role of the employees of the IECS in the prevention of abuse and violence among prisoners
- Three cascade-training sessions of prison staff were conducted, who thus acquired the basic knowledge about international standards related to prevention of abuse,
- Two training sessions were conducted on the topic of international guidelines for the effective investigation and documentation of torture and other cruel, inhuman or degrading treatment or punishment, known as the Istanbul Protocol

32 employees signed a full-time employment contract (31 employees as expert and executive staff, and 1 employee as a senior manager), namely, 22 new employees joined the Security Section, 3 new employees joined the Treatment Section, 2 new employees joined the Health Care Section (1 medical doctor and 1 pharmaceutical technician), 4 new employees joined the Labor Section, including the Assistant Head of the Institution.

As regards the aforementioned case from August 2017, we inform that the person detained in the Investigative Detention Facility Podgorica filed a complaint that he had been mistreated by a police officer before he arrived at the Investigative Detention Facility, and after his arrival at the Investigative Detention Facility by a security officer and detainees with whom he stayed in the room. The Danilovgrad Security Department of the Police Directorate was informed of this, whereupon the police officer, in the presence of an investigating judge, held an interview with the detained person and then the case was

forwarded to the Basic State Prosecutor's Office in Podgorica. The Basic State Prosecutor's Office in Podgorica found that there were no elements for initiating the criminal proceedings.

In 2018, the fixation of the persons deprived of liberty was applied to nine persons deprived of liberty, namely, to eight prisoners and one detainee.

As regards the duration of fixation, the data are as follows:

- to four persons - one day
- to two persons - two days
- to one person-three days
- to one person-five days
- to one person - six days

The fixation of the persons deprived of liberty in all cases was done exclusively using the straps for the humane tying, without the use of metal handcuffs and metal chains, as stated in the Report.

OPINION OF THE INDEPENDENT INSTITUTION OF THE OMBUDSPERSON / PROTECTOR OF HUMAN RIGHTS OF MONTENEGRO

In relation to paragraph 41, Protector of Human Rights and Freedoms continuously points out an absolute ban on torture and abuse at the Institute for the Execution of Criminal Sanctions during each NPM, visiting in the initial and final interview with the Prison Administration and in the annual reports on the work of the NPM. Likewise, the Protector of Human Rights and Freedoms, in its own way, works on complaints similarly as the Ombudsman. The Protector has already dealt with the issue of linking prisoners with mental illnesses in the Institute and the appropriate training of medical personnel in this context. As it is established, nurses / technicians are trained to perform humane fixation. The training was conducted in April 2015 by psychiatrist and medical technicians from the Special Psychiatric Hospital in Kotor. However, in the same year in September, a few months after training, the Protector found a case of inhumane treatment, apropos detention of the prisoner for a total duration of 19 days.

Bearing in mind the aforementioned, the Protector raised the question regarding the quality and evaluation of this training and pointed out the need for continuous implementation of training and peer review, hence evaluation of the treatment in each application of the fixation - from the initial decision of the psychiatrist about the need to fix the patient, by monitoring the entire fixation time, until the decision on the termination of need for fixation.

In late 2017, the Ombudsman found that the IECS (Institution for the Execution of Criminal Sanctions) continues to use instruments for binding of persons with mental illness, addicted to drugs and other persons in state of crisis. The Ombudsman reiterated that bonding should be measured by minutes, not hours, and that to patients suffering from acute psychosis or severe depression is necessary to provide immediate treatment in a psychiatric institution. However, we emphasize that the Ombudsman has not found a case of binding for the purpose of punishment of detained persons or prisoners.

COMMENT ON PARAGRAPH 42:

The employee of the Institution for the Execution of Criminal Sanctions, who participated in the incident of July 2017, and who was in charge of security of the detained persons in the Investigative Detention Facility Podgorica, was declared responsible for the serious violation of official duty in the disciplinary proceedings in August 2017 (abuse of office or exceeding the authority in service). Due to the committed disciplinary offense, the above-mentioned employee was suspended until the completion of the disciplinary proceedings. In the disciplinary proceedings, a fine was imposed on him as a disciplinary measure. In this specific case, the exceeding of authority regarding the use of coercive means was insignificant and without any consequences for the detained person.

COMMENT ON PARAGRAPH 44:

The Ministry of Justice and the Institution for the Execution of Criminal Sanctions have been continuously working to raise awareness of the ban on torture in prisons, so the Institution for the Execution of Criminal Sanctions adopted the training curriculum for the employees of the IECS for 2018-2019 and organized a series of training sessions independently, as well as in cooperation with the European Commission and the Council of Europe, through the Horizontal Programme, as well as with NGOs in the previous period:

- Three cascade training sessions of prison staff were conducted who thus acquired the basic knowledge on international standards related to prevention of abuse
- Two training sessions were conducted on the topic of international guidelines for the effective investigation and documentation of torture and other cruel, inhuman or degrading treatment or punishment, known as the Istanbul Protocol

Risk assessment

- Early recognition of mental disorders and the risk of suicide with prisoners,
- Performance of security tasks (in cooperation with the Police Academy)
- 32 new employees signed a full-time employment contract, namely, one Assistant Head of the Institution for the Execution of Criminal Sanctions, then 22 new employees in the Security Section, 3 new employees joined the Treatment Section, two new employees joined the Health Care Section (1 medical doctor and 1 pharmaceutical technician), and four new employees joined the Labour Section. 17 disciplinary proceedings were initiated against the employees of the Institution for the violation of official duty, namely, 2 proceedings for minor violation of official duty, and 15 procedures for serious violation of official duty. 14 proceedings were completed, while three proceedings are ongoing. In one disciplinary proceeding, a disciplinary measure for serious violation of official duty - termination of employment was pronounced, a disciplinary measure of written warning was pronounced in one proceeding, while a fine was imposed as a disciplinary measure in the remaining 12 proceedings. The violation of official duty did not refer to the abuse of persons deprived of liberty in any disciplinary proceedings.

COMMENT ON PARAGRAPH 45:

The facility of the total area of 170 m² for the convicted persons serving the juvenile prison sentence has been equipped and reconstructed, with the following amenities: three rooms for accommodation with bathrooms, a room for persons with disabilities, a living room with all amenities, a visiting room, a

classroom and an office for the implementation of treatments, a room for the needs of the Health Service, as well as the working space for security officers.

COMMENT ON PARAGRAPH 46:

Article 38 of the Law on Execution of Prison Sentences, Fines and Security Measures stipulates that there must be at least 4m² of space per prisoner. In order to overcome this problem, the Management of the Bijelo Polje Prison reconstructed three new rooms for accommodation of prisoners in order to expand the accommodation capacities. Owing to the opening of new rooms, the number of prisoners per room decreased. With the construction of the new Prison for the Northern Region of Montenegro, the spatial capacities in Spuž will be relieved, because, besides the prisoners serving a prison sentence of up to 6 months, a prison sentence will also be served in the new prison by the prisoners who have been sentenced to imprisonment of more than 6 months, and whose place of residence is in the Northern region of Montenegro. Moreover, the Ministry of Justice has been implementing the policy of strengthening the system of alternative sanctions in Montenegro, so in this respect it is expected that the number of prisoners will be reduced, and therefore, by increasing the spatial capacity, the legal obligation that there must be at least 4m² of space per prisoner will be fulfilled.

COMMENT ON PARAGRAPH 47:

In the A pavilion, the old mattresses were replaced by new ones. The toiletries are available to prisoners and are delivered on a fifteen-day basis. Moreover, the Institution periodically provides prisoners who have no means of livelihood, and who are not employed with the means for maintaining the personal hygiene.

COMMENTS ON PARAGRAPHS 48 AND 49:

OPPINION OF THE INDEPENDENT INSTITUTION OF THE OMBUDSPERSON / PROTECTOR OF HUMAN RIGHTS OF MONTENEGRO

Concerning paragraphs 48 and 49, we note that the treatment of persons residing in the IECS is in focus of the Protector of Human Rights and Freedoms. Annual report on the work of the NPM (National Preventive Mechanism) for 2016 contains an assessment of the situation in the field of penal treatment of prisoners with accompanying detailed recommendations based on previously analyzed state. On this occasion, the Protector of Human Rights and Freedoms gave 11 concrete recommendations, including recommendations to: define and implement special treatment measures for the recidivist, to organize different forms of vocational training of prisoners - work and learn principle, to organize the rehabilitations collectives in order to have equal number of inmates, to provide necessary premises in pavilions for ensuring adequate work of treatment officers with prisoners, to create conditions enabling that one treatment officer works with the rehabilitation collective of up to 30 inmates, to provide support for treatment officers in the performance of administrative duties to be able to devote the necessary time to professional rehabilitation work, to organize prisoners' off time in form of sports, educational and cultural activities, for the Treatment Department to establish permanent cooperation with the institutions of importance for the delivery of post-penal assistance –Employment Agency and Social Work Centre.

COMMENT ON PARAGRAPH 49:

Since the beginning of September 2018, the group work with addicts has been carried out within the project Horizontal Support to the Western Balkan countries and Turkey. The work is organized in cooperation with non-governmental organizations 4life and Juventas. NGO 4life runs a psychotherapeutic workshop and the self-help group (both for the duration of 1h30 minutes) with a group of 10 addicts, while NGO Juventas runs the groups of psychosocial support with 2 groups each including 10 addicts. The employees of the Treatment Section attend the training sessions so that they could continue their work independently upon completion of the project.

Since the beginning of September 2018, the employees of the Treatment Section of the Correctional Facility Podgorica have been conducting a special program "Anger Management" with a group of 10 prisoners of the Correctional Facility Podgorica. The program lasts for three months, and upon its completion, the next group will continue with it.

At the beginning of August 2018, a psychotherapist started a psychotherapeutic work with a group of prisoners (10 of them) with long-term prison sentences.

On 4 September 2018, a workshop cycle on the topic "Safety in public transport" started. A prisoner who has worked in the field of transport delivers lectures to the prisoners who have committed a criminal offense in this field. The workshops attended by 9 participants are held on Tuesdays in the semi-open department of the Correctional Facility Podgorica. Since the training session consists of 3 lectures, after completion of this one, the same training session will be held with juveniles in the semi-open department.

In cooperation with the organizations HELP Montenegro and the Association for Employment, Adult Education, Organization and Conduct of Professional Rehabilitation, the training for professions - carpenter and locksmith is carried out, where external associates will be responsible for the theoretical part of the training, while the instructors of the Institution will be engaged in the practical part. The training started in September 2018 and is attended by 10 prisoners.

The literacy workshops with adult prisoners began in the "A" Pavilion in 2017. The number of participants has changed since the beginning, and currently these workshops are attended by six participants. The content of the workshops included the learning of letters and oral spelling, composing words and sentences from the learned letters, reading the text from the primer. In addition, the prisoners were taught how to write an application or any other form of written address.

The juvenile literacy workshops have been held once a week with a group of juveniles, mostly members of the Roma population since 2017. Currently, there are no illiterates at the Juvenile Ward, but the workshops are still being carried out, but not as the group-type ones. They are held individually because of the different level of knowledge of participants. The reading and writing skills are being practiced with one juvenile – of the Roma nationality without completed primary school. One juvenile who is literate, with completed primary school has been provided with the training in writing and reading a Cyrillic script and the foundations of the English language, on his own initiative. A juvenile who completed three grades of secondary school has been provided with the training in English communication skills and English grammar, also on his own initiative. With the remaining two juveniles, the workshops of this type are not held because one of them is attending a course for locksmiths within the Institution for the Execution of Criminal Sanctions, and the other is literate and is not interested in this type of education.

The materials used include English books, primary school textbooks in the Montenegrin language, and various texts and exercises from the Internet.

The psychological workshops with juveniles began in 2017 on the topic of morality and moral reasoning. They were modelled after the "Virtues Project", which was established in Canada. A set of 52 cards of virtues is used as the material. In addition, the book "Walking the Right Road" is also used. The continuation of these workshops is planned for the following period with the use of the mentioned resources and an additional book "The Virtues Project - Educator's Guide", which was used in the work with juveniles in penal institutions in America.

In October 2018, the Correctional Facility Podgorica organized a chess tournament and 20 inmates took part in it. In the upcoming period, the organization of the tournament in table tennis is expected, and while expecting the beginning of it, the prisoners are provided with the table tennis tables so that they can prepare for the tournament.

In October 2018, a German language course started in the female ward of the Correctional Facility Podgorica, attended by 6 female inmates.

COMMENT ON PARAGRAPH 50:

As it was also pointed out to the representatives of the CPT during the visit, in order to improve the material conditions in the Investigative Detention Facility, the Institution for the Execution of Criminal Sanctions whitewashes the rooms at least once a year. In order to maintain the level of hygiene in the rooms as well as of the detainees themselves, the Rulebook on Detailed Rules for Enforcement of Detention stipulates that detainees have the right to have a shower at least once a week. All detained persons, depending on their daily activities, have an opportunity to have a shower even 2-3 times a week. In addition, according to the prison doctor's assessment, if required by health reasons, a daily bathing routine can also be provided. The detainees who do not have the means to buy hygienic products are provided with personal hygiene products (soap, shampoo, shaving foam, toothpaste, shaving razor, toilet paper) by the Management of the Prison, at least twice a month. Sanitary blocks have been reconstructed from floor to ceiling.

COMMENT ON PARAGRAPH 51:

The Rulebook on Detailed Rules for Enforcement of Detention stipulates that the detained persons are allowed to walk on a daily basis for two hours. The possibility of using a one-hour or two-hour walk depends on the number of detained persons or different groups that need to be separated according to the Code of Criminal Procedure.

Therefore, the engagement of detainees in the Podgorica Investigative Detention Facility and the Bijelo Polje Prison is limited and will be enabled within the prison area in accordance with their psychological and physical characteristics, provided that this does not have a detrimental effect on the criminal proceedings and if approved by the investigating judge or the Presiding trial judge. Occasionally, in accordance with the psychological and physical characteristics of the detained persons, detainees are engaged in carrying out construction works, namely, the persons for whom the competent prison service assesses, from the aspect of safety, that they can be engaged in work activities. Detained persons are most often engaged in hygiene maintenance and food distribution jobs.

COMMENT ON PARAGRAPH 52:

In order to overcome the problem of overcrowding, the Prison Management has reconstructed three new prison accommodation facilities to expand the accommodation capacities. Owing to the opening of newly equipped rooms, the number of prisoners per room decreased.

COMMENT ON PARAGRAPH 53:

During the past months, a construction operative unit was formed consisted of prisoners and detainees. Prisoners were engaged as laborers on the construction of the defensive wall around the Prison, while the jobs within the Investigative Detention Facility area were performed by the detainees with the prior approval of the competent court. In addition to construction works and construction field work, prisoners perform the activities of a duty man, assistant chef, assistant waiter in a prison buffet, gardener, attendant in the prison canteen, as well as a worker on the heating system monitoring. With the aim of better organization of leisure time, the Treatment Section organized a large number of activities, in terms of workshops with prisoners as well as sports and recreational activities. The workshops are conducted by a psychiatrist four times a month, and the following topics have been addressed:

- Negative impact of the use of PAS
- Addiction diseases as risk factors for somatic diseases (hepatitis C; HIV)
- Problems in the reintegration of prisoners in their surroundings after the termination of the sentence
- Psychoactive substances
- Lie
- Communication and addiction to tablets
- Nicotine addiction
- Gambling addiction
- Socio-demographic aspects of perpetrators of criminal offenses in the population of drug users and addicts

COMMENT ON PARAGRAPH 56:

Pursuant to the Law on Treatment of Juveniles in Criminal Proceedings, at the Institution for the Execution of Criminal Sanctions, juveniles are accommodated separately from adults. Article 63 of this Law provides for an exception that a juvenile judge may order a juvenile to be detained together with an adult who would not adversely affect him/her and for the reason that the loneliness of the juvenile would not have a detrimental effect on the development of his/her personality.

Juveniles are accommodated in a separate part of the F pavilion and have no contact with adult prisoners. They are accommodated in this separate part until the age of 23, and if the sentence is not completed until then, they will be sent to the ward where adult persons serve the sentence of imprisonment, in accordance with Article 33 of the Law on Treatment of Juveniles in Criminal Proceedings. The same Law provides for the exception that a person who has reached 23 years of age may remain in the juvenile ward if necessary for the completion of his or her education or training, but not after the age of 25. This problem will be overcome by accommodating them in the newly-built Juvenile Ward.

An individual treatment program is developed for all juveniles and their classification and accommodation in rooms is performed on the basis of individual treatment program, type of the committed criminal offense and their age.

OPPINION OF THE INDEPENDENT INSTITUTION OF THE OMBUDSPERSON / PROTECTOR OF HUMAN RIGHTS OF MONTENEGRO

In relation to paragraph 56, we note that according to the information of the Ombudsman (dated 29 October 2018) in the IECS there are no minors serving prison sentences. During last year, according to the relevant information, in the IECS were 6 minors, while in 2016 there were 3 minors, whose treatment was under the special attention of the Ombudsman.

COMMENT ON PARAGRAPH 57:

The annual plan of work with juveniles also includes their education. The cooperation with the Ministry of Education has been established aimed at juvenile education. This especially refers to the juveniles who have not completed primary school, so the education process is carried out in accordance with the principles of adult education. For the purpose of better quality continuation of the re-socialization treatment, they have been provided with books and other necessary learning resources. Currently, the literacy program is being conducted within the Juvenile Ward by the employees of the Institution. The difficulty in the primary education process is reflected in the lack of personal documents of juveniles (predominantly of the Roma population), which prevents their inclusion in regular educational programs, and for this reason additional cooperation with the Social Welfare Centers has been established. Two juveniles finishing the high school are in the process of education. Two juveniles have completed the high school.

Currently, there are no illiterates in the Juvenile Ward, but they are provided with education on an individual basis because of the different level of knowledge of the participants. The reading and writing skills are being practiced with one juvenile – of the Roma nationality without completed primary school. One juvenile who is literate, with completed primary school has been provided with the training in writing and reading a Cyrillic script and the foundations of the English language, on his own initiative. A juvenile who completed three grades of secondary school has been provided with the training in English communication skills and English grammar, also on his own initiative. With the remaining two juveniles, the workshops of this type are not held because one of them is attending a course for locksmiths within the Institution for the Execution of Criminal Sanctions, and the other is literate and is not interested in this type of education. The materials used include English books, primary school textbooks in the Montenegrin language, and various texts and exercises from the Internet.

The psychological workshops with juveniles began in 2017 on the topic of morality and moral reasoning. They were modelled after the "Virtues Project", which was established in Canada. A set of 52 cards of virtues is used as the material. In addition, the book "Walking the Right Road" is also used. The continuation of these workshops is planned for the following period with the use of the mentioned resources and an additional book "The Virtues Project - Educator's Guide", which was used in the work with juveniles in penal institutions in America.

At the moment, there are 7 juveniles in the Juvenile Ward, of which three serve the sentence of juvenile imprisonment, and the measure - corrective measure - referral to a correctional facility of the institutional type has been imposed on the remaining ones. All juveniles are engaged in work activities. The equipment for the cultural, sports and educational activities of juveniles (gym equipment, computer equipment, a professional camera) was provided through the UNICEF donation.

COMMENT ON PARAGRAPH 58:

At the moment, there are 7 juveniles in the Juvenile Ward, of which three serve the sentence of juvenile imprisonment, and the measure - corrective measure - referral to a correctional facility of the institutional type has been imposed on the remaining ones. All juveniles are engaged in work activities.

COMMENT ON PARAGRAPH 59:

The health care for prisoners in the Institution for the Execution of Criminal Sanctions is provided on the primary level and partly on the secondary level.

At the end of 2016, prison clinics were registered for the first time by the Ministry of Health.

This decision was preceded by the fulfilment of conditions regarding the premises, equipment and the necessary staff prescribed by the Ministry of Health.

Prisoners in the Institution for the Execution of Criminal Sanctions are given priority in relation to the wider social community regarding the provision of permanent health care as well as the treatment in the well-established health institutions of Montenegro, so that the existing belonging of the Health Care Section of the IECS to the Ministry of Justice does not hamper or deny the possibility of adequate treatment of the persons detained in the IECS. Such treatment of prisoners was also noticed by independent institutions in Montenegro (Office of the Ombudsman, and certain NGOs that performed the monitoring of the Prison).

Furthermore, the existing form of organization has enabled a more efficient, that is, a faster response of the health care system to the needs and demands of the prisoners in the IECS, so in this regard we recognized the need, and then engaged eight medical specialists who come once a week and, if necessary, even more times a week. In this way, we have brought healthcare closer to the patients in the IECS.

Moreover, the medical technicians and doctors employed in the IECS have greater benefits within the Ministry of Justice, in the form of reduced service years for retirement and higher wages, which we think they would not have if they were under the Ministry of Health, where they would become equal with other public sector healthcare workers.

As for the Ministry of Health, in the existing organization it is designated to supervise the work of the prison clinics, which it does.

COMMENT ON PARAGRAPH 60:

In the past period, the Project Team was formed that defined the terms of reference and started the procedure for obtaining the Town-Planning and Technical Requirements for the locations on which the facility will be built, so in this regard the Ministry of Sustainable Development and Tourism issued a Decision on Invitation to Tender for the Development of a Preliminary Architectural Design for the construction of 4 facilities within the complex of the Institution for the Execution of Criminal Sanctions (the Special Health Institution in the Institution for the Execution of Criminal Sanctions, the Multifunctional Facility, the Registration Office and the Prison Camp), and on 11 September 2018 the Public Tender was announced, which will last 2 months. In addition, the members of the Public Tender Committee were selected for evaluation of the received tenders.

The gross surface area of the facilities of the Special Health Institution with the internal atrium is planned to be 4500m². The concept of the design of the facility is such that four health units are planned, namely:

- shared rooms and rooms for the accommodation of medical staff and clinics;
- The male ward for addiction diseases and mental disorders and serious behavioral disorders for 100 patients;
- The female ward for addiction diseases and mental disorders and serious behavioral disorders for 16 patients;
- The juvenile ward for addiction diseases and mental disorders and serious behavioral disorders for 14 patients;

COMMENT ON PARAGRAPH 62:

During October 2018, the procurement of new medical equipment in the amount of EUR 10,000.00 was carried out.

In the Investigative Detention Facility, Podgorica, in addition to two clinics with the section for therapeutic interventions, there is also a pharmacy, a cabinet for ultrasound diagnostics, as well as a cabinet for physical therapy which is constantly available to the patients in the IECS.

In each prison pavilion of the IECS there is an outpatient clinic equipped for the provision of healthcare services at the primary level.

In the Investigative Detention Facility in Podgorica and the Correctional Facility there are also dental clinics and the possibility for daily examination and treatment by a dentist (an oral surgery specialist). In the last three years, purchases of new medical equipment have been continuously planned and realized.

COMMENT ON PARAGRAPH 63:

In accordance with the Guidelines on the Health Care of Detained and Convicted Persons in the IECS, revised in April 2018, Article 4 stipulates that the patient shall be examined by the prison doctor upon admission to prison within 24 hours at the latest, and if the existence of mental disorders is recorded upon admission, the patient must be examined by a psychiatrist within the shortest time period, up to 24 hours, and entered into the register of patients with mental disorders.

Article 27 of the Guidelines, states that the Healthcare Section is responsible for the screening and timely detection, prevention, treatment and control of infectious diseases, as well as for the maintenance of the records in the register of infectious diseases.

The above activities and guidelines are continuously implemented.

COMMENT ON PARAGRAPH 64:

Where a patient is admitted to the prison with body injuries, or receives injuries while staying in the IECS, in accordance with Article 22 of the Guidelines, a prison doctor is obliged to prepare a medical report about this and notify the person in charge of the prison in writing. Moreover, the prison doctor is obliged to record the patient's injuries in a separate Protocol of Injuries and Unwanted Events (given in Appendix No. 22 of the aforementioned Guidelines) with schematic sketches of the body on which traumatic injuries, as well as their location, position, shape, size, and appearance can be indicated with a detailed description of the injuries and the manner in which they were inflicted, as well as the circumstances of the unwanted event.

The injuries are photographed and kept in a special electronic form on the computer. Bearing in mind the recommendations of the CPT and the Council of Europe after the training sessions held on the topic of the Istanbul Protocols during May and July 2018, more detailed body maps will be implemented where body injuries will be recorded and described, and the photographs thereof printed and stored in the medical record.

COMMENT ON PARAGRAPH 65:

Medical examinations of the patients in the IECS are carried out in the premises of the clinics of the Healthcare Section.

In accordance with Article 9 of the Guidelines of April 2018, the patient comes for the medical examination accompanied by a security officer.

The security officer remains in the waiting room (in front of the clinic) during the examination.

The security officer may be present during the medical examination if the prison doctor assesses that his presence is necessary.

The examination of the patient is carried out in the presence of a medical technician, unless the prison doctor assesses otherwise.

Medical records are only available to employees in the Healthcare Section, and they are kept in locked closets.

COMMENT ON PARAGRAPH 66:

The Benzodiazepines drug is prescribed by the healthcare service of the Institution for the Execution of Criminal Sanctions in accordance with the Guidelines of the Agency for Medicines and Medical Devices of Montenegro (CALIMS) and the protocols for the treatment of addiction diseases, anxiety disorder, mood disorder and other mental disorders that are particularly pronounced in the prison population.

The psychotherapeutic work with psychoactive substance addicts is also based on the group work according to the principles of transactional, cognitive behavioral psychotherapy and the "12-step" Program. The prisoners are introduced through the Program of the basic symptoms of the disease and its progressive course. They learn the techniques and skills to fight the disease and become familiar with new behavioral patterns in order to achieve and maintain the abstinence.

In order to improve the work of the IECS and to meet the CPT standards, the programs of continuous education and training of employees and prison population have been developed, so, in this respect, in the organization of the NGO "Civic Alliance", the training sessions for the employees of the Healthcare Section of the IECS were initiated, namely, the training session for the medical staff of the IECS, conducted by the doctors from the Special Psychiatric Hospital in Dobrota-Kotor, doctor Aleksandar Tomčuk and doctor Jovo Đedović, and the thematic fields of the training related to: the Measures of physical constraint and isolation of persons with mental disorders; Substitution therapy in the treatment of addiction diseases; Prevention and early recognition of the risk of self-harm and suicide; Destigmatization of persons with mental disorders and their re-socialization; The latest pharmacotherapeutic guidelines and principles in the treatment of persons with mental disorders and behavioral disorders. The above training sessions of the medical staff of the Healthcare Section were held on 9 March and 16 March 2018, during the working hours of the employees (the training plan was developed upon the presentation of the Ombudsman's report). On 24 April 2018, a group of medical staff of the Healthcare Section of the IECS attended a one-day training session on the topic "Attitude towards marginalized social groups and their treatment" and within the Council of Europe's Horizontal Project "Enhancing Human Rights Protection for Detained and Sentenced Persons in Montenegro", two two-day training sessions were organized, attended by a total of 36 employees (mostly healthcare workers), on the topic of international guidelines for effective investigation and documentation of torture and other cruel, inhuman or degrading treatment or punishment - the Istanbul Protocol. In the period from 29 to 30 May 2018, the representatives of the Institution attended a meeting of the South-East European NPM Network on the topic "Prevention of Suicide and Overdose in Detention Facilities and the NPM Status in Member States" in Podgorica, during which the recommendations were given to adopt the Strategy for Prevention of Suicide and Self-Harm at the state level with all additional adequate measures for the prevention of suicide and overdose in detention facilities.

OPPINION OF THE INDEPENDENT INSTITUTION OF THE OMBUDSPERSON / PROTECTOR OF HUMAN RIGHTS OF MONTENEGRO

Regarding paragraph 66, we refer to our response concerning the paragraph 41. The Ombudsman has already stressed the need for relocation of prisoners, whose health conditions require so, particularly for patients who suffer from acute psychosis or severe depression, the treatment in a psychiatric institution should be immediately provided. We repeat again that according to findings of Ombudsman,

On this occasion, again, according to the findings of the Ombudsman, binding of prisoners was the case only in state of crises, in order to prevent self-harm or harm of others, never with the intention to punish those persons in this way.

COMMENT ON PARAGRAPH 67:

The substitution therapy with Methadone and Buprenorphine has been conducted in the IECS in compliance with the current guidelines of the Ministry of Health and it is available and applied to all patients with medical indications for the application of this type of treatment, and is prescribed by a psychiatry specialist - narcologist in the IECS. The group and individual psychotherapy treatments are available to these persons, as well as to other patients with mental disorders in the IECS.

COMMENT ON PARAGRAPH 68:

In the IECS, during 2018, through the legal procedures for advertising job vacancies, 23 new employees signed a full-time employment contract in the Security Section, of which 8 employees in the Correctional Facility Podgorica, 9 in the Podgorica Investigative Detention Facility, 4 in the Prison for short-term sentences and 2 in the Bijelo Polje Prison.

COMMENT ON PARAGRAPH 69:

The Decree on the Uniform, Weapons, Vehicles and Special Equipment of Security Officers at the Institution for the Execution of Criminal Sanctions stipulates that the special equipment of a security officer consists of the basic equipment and special equipment.

The basic equipment, among other things, consists of:

1. The belt with a holster, a case for a handheld radio device, a case for the spare clip, a case for mechanical restraints, a case for a hand-held spray and the baton strap;
2. The tactical baton;
3. A pepper spray

The Decree on the Uniform, Weapons, Vehicles and Special Equipment of Security Officers at the Institution for the Execution of Criminal Sanctions stipulates that special designations shall be worn on the uniform, as follows:

1. The designation on the cap - on the central, frontal part of the cap;
2. The emblem - in the middle of the upper arm of the left sleeve of the outside of the uniform;
and
3. The official badge - on the left side of the chest, on the outside of the uniform.

COMMENT ON PARAGRAPH 72:

The new Guidelines on the Healthcare of Detained and Convicted Persons in the Institution for the Execution of Criminal Sanctions of April 2018 enhanced the Fixation Protocol, that is, the Protocol on the use of coercive means – mechanical restraints (humane) for mentally ill persons, in accordance with the CPT recommendations and the national legislation. Consultants of the Council of Europe took part in the drafting of the Guidelines, through the Horizontal Project of the Council of Europe named, "Enhancing Human Rights Protection for Detained and Sentenced Persons in Montenegro".

Namely, Articles 24 and 25 of the Guidelines on the Healthcare of Detained and Convicted Persons in the Institution for the Execution of Criminal Sanctions prescribe that if the patient is aggressive, refuses the

prescribed psychiatric treatment, is in a psychotic condition, dangerous for himself and the environment, a prison doctor, in consultation with a psychiatrist, prescribes the chemical fixation. If the chemical fixation does not produce results, then the psychiatrist proposes, as the ultimate solution, the fixation with the straps for the humane tying (and not with metal handcuffs and metal chains as indicated in the CPT Report). The measures of physical restraint and isolation of persons with mental disorders are applied as a manual restraint, physical restraint, mechanical restraint and isolation. These measures are applied only on the condition that they are not humiliating or degrading, that they do not imply intimidation or conditioning, do not deprive somebody of the satisfaction of basic needs and the means of communication, do not cause physical pain to persons with mental disorder and behavioral disorder, or cause serious mental distress and do not imply unauthorized drug use. The physical restraint and isolation measures are used exclusively in the best interest of the person with mental disorder and behavioral disorder, only where the person presents an immediate danger of serious self-harm or harm to another person. These measures cannot be extended or last longer than the time necessary to eliminate the danger and ensure the physical safety of the person with mental disorder and behavioral disorder, or the other person. The decision on the application of physical restraint and isolation measures is adopted by the competent psychiatrist in the IECs, after detailed consideration of each individual case and the attempt of applying less restrictive measures in order to select the measure that best meets the needs of a specifically identified person with mental disorders or behavioral disorder. Prior to direct application of physical restraint and isolation measures, the competent psychiatrist provides a person with mental disorder or behavioral disorder, in a manner comprehensible to that person, with the reasons for the application of the measures, the presumed duration and the circumstances that will affect and lead to their termination. These measures are applied exclusively by professionally trained healthcare workers in the presence of security officers of the IECs, based exclusively on ethical and legal frameworks. Healthcare workers are required to undertake all medical measures in order to put an end to physical restraint and isolation as soon as possible. Taking into account the risk of possible injuries, the measures of physical constraint of a person with mental disorder or behavioral disorder are applied provided that the person is not placed in a face-down position by tying the legs and arms; that they do not obstruct the functioning of his/her respiratory or digestion organs; do not aim to discipline the person by causing pain, stretching or twisting of the joints, pressure on the chest, joints or extremities; do not cause pain and the threat of pain is not a way to ensure obedience; a position that could lead to a hairline crack or bone fracture of a person with mental disorder is not used. During the application of physical restraint and isolation measures, a person with mental disorder and behavioral disorder must be under intense supervision by a healthcare professional, and his physical condition will be continuously monitored, at intervals not longer than 15 minutes, by observing the general psychophysical condition and registering the vital clinical indicators (pulse, breathing, body temperature) with the recording thereof in the fixation protocol (given in Appendix No. 23). Physical restraint i.e. the humane tying and isolation, are used only in emergency situations, and only for the purpose of ensuring the physical safety of persons with mental disorders and behavioral disorders or of any other person, provided that less restrictive interventions have been previously exhausted and have proved to be ineffective. The competent psychiatrist who has made a decision on the application of physical constraint or the humane tying and isolation is obliged to observe the behavior of that person, in cooperation with medical technicians and members of the security service, and in particular the signs of anxiety during the physical constraint or humane tying, as well as within two hours after the termination of application of these measures. There is a special system of monitoring and analysis of the application of procedures related to physical constraint, i.e., humane tying and isolation, with the maintenance of adequate accompanying medical records and documentation in the form of the fixation protocol (given in Appendix No. 23), which states the existence of a tendency towards self-harm and suicidal ideas and intentions, who ordered the fixation,

as well as the time and reason for fixation, including the means used for fixation with the prescribed medication therapy, the recording of potentially inflicted body injuries during fixation, and regular monitoring of vital parameters and general psychophysical condition of the patient by the medical staff.

In 2018, the fixation of the persons deprived of liberty was applied to nine persons deprived of liberty, namely, to eight prisoners and one detainee.

As for the duration of fixation, the data are as follows:

- to four persons - one day
- to two persons - two days
- to one person-three days
- to one person-five days
- to one person - six days

The fixation of the persons deprived of liberty in all cases was done exclusively using the straps for the humane tying, without the use of metal handcuffs and metal chains, as stated in the Report.

COMMENT ON PARAGRAPH 73:

Pursuant to Article 108 of the Law on the Execution of Prison Sentences, Fines and Security Measures, it is stipulated that, among other measures, a disciplinary measure – solitary confinement may be imposed for a grave disciplinary offence.

The measure of solitary confinement may be imposed for up to 14 days. The practice is that when two disciplinary measures are imposed on the same prisoner in the separate proceedings, the solitary confinement for 14 days, this measure is executed in a way that, after the 14th day, the pause of several days will be made, and only after that the other disciplinary measure, solitary confinement for 14 days, will be carried out.

COMMENT ON PARAGRAPH 74:

The problems have been identified in practice in the application of the provisions of the Law on the Execution of Prison Sentences, Fines and Security Measures which prescribes the disciplinary proceedings. The organization of training sessions and workshops will help to overcome these problems, and thus the duration of the disciplinary proceedings will be reduced.

COMMENT ON PARAGRAPH 75:

A prison doctor examines the prisoners who are placed in a solitary cell due to a disciplinary offense after their admission, and he also provides a person who manages the prison with a report on the current health condition of the prisoner. However, the problems have been identified in applying the provisions of the Law on Execution of Prison Sentences, Fines and Security Measures and the Rulebook on Detailed Rules for Enforcement of Detention so that the efforts will be made to overcome these problems.

COMMENT ON PARAGRAPH 77:

The measure of separation into a separate room (not in the solitary cell) is imposed for the duration of up to seven days, and exceptionally up to 15 days, if a disciplinary measure has been imposed on a juvenile earlier. During the execution of the disciplinary measure of the separation into a special room, the doctor and the day-care teacher are obliged to visit the juvenile every day, and if necessary, other professionals are required to do so, as well. (Article 175 of the Law on Treatment of Juveniles in Criminal Proceedings).

COMMENT ON PARAGRAPH 79:

The detainees in the Investigative Detention Facility Podgorica and the Bijelo Polje Prison are enabled to get in contact with the outside world in accordance with the provisions of the Code of Criminal Proceedings and the Rulebook on the Detailed Rules for Enforcement of Detention. As the detention is a measure for ensuring the presence of the convicted person and unhindered conduct of criminal proceedings, whose execution is supervised by the Presiding Trial Judge authorized for that purpose or by the judge appointed by him, the persons on whom this measure is imposed, or detained persons may establish a contact with the outside world (visits, written correspondence and telephoning) solely upon the approval of the investigating judge.

The detained persons make a contact with the outside world through visits by spouses or persons with whom they live in permanent extramarital cohabitation, their close relatives, defense attorney and other persons, the representatives of domestic organizations dealing with human rights protection, the representatives of international anti-torture committees, the International Committee of the Red Cross, as well as the representatives of international organizations dealing with the protection of human rights when this is stipulated by ratified international treaties, while the detainees who are foreign nationals may also be visited by the representatives of the diplomatic missions and consular posts of a foreign country whose nationals they are. Moreover, the detained persons may also make a contact with the outside world by way of correspondence with the persons outside the prison, by making a telephone call only in telephone booths within the prison area, at the time and in a manner determined by the daily schedule.

COMMENT ON PARAGRAPH 82:

During the previous year, the Institution for the Execution of Criminal Sanctions renewed the fleet with six special-purpose vehicles – for the transport of prisoners, and all new vehicles have belts and their interior is sufficiently illuminated. The procedure for procurement of another vehicle for the mentioned purposes, which will be at the disposal of the Bijelo Polje Prison, is currently underway.

COMMENT ON PARAGRAPH 88:

Activities aimed in addressing this problem are continuously carried out in interaction with the Ministry of Labour and Social Welfare, i.e. municipal centers for social work in which there is an individual examination of the possibilities for the deinstitutionalization process.

Following the completion of the Feasibility Studies (September 2018), a public call was announced for the development of urbanistic solution for the special health institution within the Institute for

Enforcement of Criminal Sanctions (IECS) in Spuž (more accurate information can be provided by the Ministry of Justice and/or the IECS).

Regarding the resolution of “the social patients” (March and July 2018), the working meetings with the directors of all centers for the social work in Montenegro, were held in the hospital with the presence of representatives of the Ministry of Health and the Ministry of Labour and Social Welfare, after which they re-examined patients who could have been discharged from the hospital. Thus there were no significant results for their dislocation from the hospital.

With reference to deinstitutionalization which is set by the Action Plan for Mental Health Improvement, hospital management constantly supports all activities of the Ministry of Health and the NGO sector in this direction. The hospital has been in an excellent cooperation for the five years so far, with the Mental Health Centers in Trieste, Italy. Usually it participates once a year on the deinstitutionalization conferences held in Trieste, and their experts have attended and held three seminars on deinstitutionalization in Kotor (2016), Bar (2017), and Belgrade (2018), hence attended by the representatives of this institution.

COMMENT ON PARAGRAPH 90:

These recommendations are an integral part of the hospital Protocol on the treatment in the case of the abuse suspicion, thus all health workers employed in the hospital will be required to implement them. The management of the institutions, held at the Professional Collegiums that are held once a week with the head directors and managers of all the departments and services where the main hospital technician is present, constantly reminds “that any form of bad behavior towards the patients is not acceptable and will be sanctioned.” This is also elaborated at the meetings with the main technicians of all departments in the hospital, which are mandatory and held once a month.

OPPINION OF THE INDEPENDENT INSTITUTION OF THE OMBUDSPERSON / PROTECTOR OF HUMAN RIGHTS OF MONTENEGRO

In accordance with the Opinion and recommendations of the Protector of Human Rights and Freedoms of Montenegro (5 December 2017), a Protocol on the Treatment of Cases of Torture and Other Forms of Patient Abuse was made, which, in addition to the Opinion and Recommendations (5 January 2018) was submitted to the Protector of Human Rights and Freedoms of Montenegro.

A copy of the Protocol is forwarded to CPT with this response.

COMMENT ON PARAGRAPH 91:

After receiving the Opinion and recommendations of the Protector of Human Rights and Freedoms of Montenegro (5 December 2017), the director conducted a special procedure that resulted in the dismissal of an employee’s employment contract, which, after the investigation was conducted by the Protector, hence found that he treated the patients inappropriately and abused them. The medical technician who got filed a lawsuit to the Basic Court of Kotor, against the hospital for annulment of the

decision on cancelling and returning to work. The final verdict in the procedure in which the hospital is represented by the law office, has not been issued yet.

The Basic State Prosecutor's Office in Kotor submitted an indictment against a person for the criminal offence – torture, in accordance with Article 166a of the Criminal Code of Montenegro. This act was done against seven persons. The proceeding before the court is in progress.

COMMENT ON PARAGRAPH 93:

OPINION OF THE INDEPENDENT INSTITUTION OF THE OMBUDSPERSON / PROTECTOR OF HUMAN RIGHTS OF MONTENEGRO

In relation to paragraph 93, we underline that the Proctor of Human Rights and Freedoms of Montenegro each year repeats the recommendations to relevant ministries and Special Psychiatric Hospital in Kotor, referring to the so-called excessive retention of "social patients", i.e. the persons residing in the hospital because they do not have a possibility to live in the community, and whose long-term stay in such an institution (10, 20 and even 54 years) is not acceptable.

In addition, very important recommendations referred to the improvement of material conditions, as well as the construction of the trial and forensic hospital, which would relieve the existing hospital capacities. As we recently visited the Hospital (04 September 2018.), we are able to present preliminary data on the status quo. Therefore, the material conditions were slightly improved, but still far from the standards. The Hospital is still burdened with an overabundance and lack of permanent staff. The report on the aforementioned visit is in progress and will be presented in the Annual report on the work of the NPM for 2018.

COMMENT ON PARAGRAPH 94:

Two newly build facilities were constructed from the funds received from projected coming from the Hospital, and they are used for: The first building which is mentioned throughout previous years is used as headquarter of the Center for the Promotion of Mental Health which operates within the hospital. It provides professional and continuous education and seminars, daily meetings of the medical collegium of the hospital, meeting of the trade unions, consultations and meetings of commissions and teams, as well as for individual ceremonies, receptions that are organized in the institution for the needs of the hospital or other healthcare institutions. The second building, which was completed and equipped in early 2018, now serves for the function of the daily hospital, and it currently represents headquarter for occupational therapists and two psychologists who perform psychodynamic procedures.

COMMENT ON PARAGRAPH 95:

In the department 6, during 2017, there was a creation of the ceramics in the patient's rooms and living room, as well as the deposition and painting of both departments. Moreover, wooden windows with aluminum hardware were replaced. One room was also renovated and a completely new dental office with an inventory was placed there. The construction of the outdoor bathrooms for the needs of chronic departments is in progress. The hospital's managements applied for the reconstruction of the whole building within the capital budget for 2019, including the departments 2 and 6, the Judicial Department,

the reconstruction of the roof, wet knots and the introduction of a complete central heating in all rooms. It is considered to be encouraging that the Special Psychiatric Hospital Kotor entered the Energy Efficiency Plan, which would start with the implementation in 2019, hence all hospital facilities would be expected to be modified in regards to energy efficiency, which will be the largest investment in this institutions for a long period of time.

COMMENT ON PARAGRAPH 96:

We believe that this problem can be prophylactically resolved in compliance with these standards when building a new court hospital, since the spatial capacities of the Special Hospital for psychiatry Kotor significantly impede quality segregation of patients in this regard in relation to safety risk.

COMMENT ON PARAGRAPH 97:

The hospital is making continuous efforts to improve the patient's living conditions in accordance with its own financial capabilities. We believe that the recommendation regarding the maximum number of patients in a single room can only be actualized in the circumstances of relocating a large number of patients to another institution, which expectable to happen when the court hospital in Montenegro is built, including through the deinstitutionalization process- the return to the community.

COMMENT ON PARAGRAPH 100:

The latest regulation of the Health Insurance Fund, a part of the new generation of antipsychotics (olanzapine, quetiapine, paliperidone), has been introduced at the expense of compulsory health insurance and it is available to all patients in the hospital. Persists the problem of administration of newer antidepressants and can be solved exclusively at the central level, or in the coordination of the Ministry of Health and the Fund.

COMMENT ON PARAGRAPH 102:

The proposal for the draft of the already mentioned protocol will be sent to the Ministry of Health. The hospital also plans to hold regular educational meetings in order to improve knowledge in this field.

COMMENT ON PARAGRAPH 103:

These activities are still in the planning process, and the hospital expects that part of the institution will be redesigned in order to improve activities of the occupational work therapy. Greenhouse production is in progress, which can be used for the mentioned activities.

The hospital plans, over the upcoming months, to do a further analysis of medical documentation by the special working body or a Commission for Quality Control of Healthcare, to see the extent of the potential problem and to provide specific guidelines for the development of individual treatment plans for each individual patient.

COMMENT ON PARAGRAPH 104:

The implementation of these activities requires amendments to the legislation and interagency cooperation of various ministries of the Government of Montenegro.

COMMENT ON PARAGRAPH 107:

The hospital is making constant efforts to improve its personnel capacities, whereby the admission of new staff is predominantly conditioned by obtaining a positive opinion from the Ministry of Health, the Fund and the Ministry of Finance.

COMMENT ON PARAGRAPH 108:

The hospital will undertake activities to increase the number of medical technicians at the Department for Forensic Psychiatry, after obtaining consent for admission of the new staff. Further education of security officers from the domain of work with psychiatric patients is also planned.

COMMENT ON PARAGRAPH 111:

It has been planned to create a new central register of the implementation of mechanical restraint of movements that will be electronic and will constantly monitor (at the daily level) the members of the Council for the Protection of the Rights of Mentally Ill, thus give concrete recommendations in the case of the appearance of a prolonged limitation of movement.

COMMENT ON PARAGRAF 116:

The hospital will make efforts to re-establish the completeness of medical documentation whereby considering these circumstances.

COMMENT ON PARAGRAPH 120:

The hospital will continue with the regular distribution of the information brochures which explain the problem to all patients and re-insure the exposure of the relevant parts of the applicable legislation in places available to patients. Amendments to the legislation defining the circumstances of forensic patient's treatment require a coordinated activity of the Ministries of Health and Justice.

COMMENT ON PARAGRAPH 121:

At the beginning of 2018, on the basis of the previously announced PUBLIC CALL, a new Council for the Protection of Mentally Disabled People was elected. The Council elected three members outside the institution (two of them from the NGO sector) and two members of the staff. They play a special role in protecting the rights of patients in accordance with the new Protocol on Treatment.

COMMENT ON PARAGRAPH 126 AND 127:

With reference to the deinstitutionalization of the Institute pursuant to the Transformation Plan, the institute launched the initiative with the competent centers to review the work capacity of 10 users and in that respect we have organized a six-day training for the employed professional staff, professional associates and associates with the aim of gaining the knowledge in order to provide support for the preparation of users for housing with support. Professor Lukić with his associates from the Faculty of Defectology in Belgrade was engaged. However, a new obligation has been set forth to us in line with recommendations of the CPT and pursuant to the European legislation, to initiate the process of reviewing work capacity of all users of accommodation, which is under the competence of the centers

for social work. The Transformation Plan envisages that by the end of 2018, the number of users is reduced by 20%, however, there are difficulties in achieving this goal, as new requests for accommodation are being submitted on a daily basis. In my opinion, local communities must be more involved in developing the service of support to these persons.

COMMENT ON PARAGRAPH 128:

As regards the CPT's observations of the case of physical abuse of user by a staff member in March 2017, all legal measures have been taken and the case was reported to the competent authorities. After the conducted investigations, the Basic State Prosecutor's Office relieved the employee from responsibility. The user's guardian, his brother, filed an appeal, so the Higher State Prosecutor's Office ordered the Basic State Prosecutor's Office to conduct the investigation again. After the conducted re-investigation, the Basic State Prosecutor's Office relieved the employee from responsibility due to the lack of evidence. The Prosecutor's Office has not taken into consideration the statement of the aggrieved party, on the basis of which the employment contract was canceled. The employee of the Institute "Komanski Most" was canceled the employment contract, and based on the employee's appeal, the Basic Court in Podgorica issued a judgement in favor of the employee, therefore the procedure is now conducted before the High Court on as per the appeal of the Institute "Komanski Most".

COMMENT ON PARAGRAPH 129:

The CPT notes that it has been observed by their side during their visit that there is no violence among users and that all incidents that occur are efficiently solved among users.

COMMENT ON PARAGRAPH 130:

As regards the transformation plan, it is necessary to extend the deadline for implementation of activities from the Transformation Plan in line with the envisaged procedure. The adaptation of all pavilions in accordance with the Energy Efficiency Program is underway and after its completion, the adaptation of the Department for Autism and the establishment of the crisis department.

COMMENT ON PARAGRAPH 132:

Cabinets and nightstands with locks for personal things that will serve to protect their privacy have been provided.

COMMENT ON PARAGRAPH 133:

Within the Energy Efficiency Program in public buildings organized by the Ministry of Economy with the German Bank, works have been launched on September 17 this year, namely: the installation of thermal insulation on the roof with the replacement of the roof cover, installation of thermal insulation on the facade, replacement of the facade ironmongery, installation of heating and cooling systems, replacement of lamps, adaptation of sanitary knots and other accompanying works, whereby the value of works is 1,1 million euros. The works will be completed in 5 months, and the problem of sanitary knots in Pavilion A, pointed out in the CPT's remarks, will be permanently solved.

COMMENT ON PARAGRAPH 135:

There are 86 employees working in the Institute at present, and since the last CPT visit, a caregiver and two nurses-technicians have been employed, as per the recommendation of the CPT regarding the increase of number of nurses and caregivers.

COMMENT ON PARAGRAPH 136:

A general practitioner being present 4 hours per day at the institution has been employed.

COMMENT ON PARAGRAPH 138:

The action has been taken and a request was submitted to the Ministry of Health regarding the registration of the clinic, and it was approved, therefore, after the adaptation of the pavilions, the clinics will be registered in the Institute, with the purpose of improving the healthcare.

COMMENT ON PARAGRAPH 143:

With regard to the "time out room", which is used in the event of extreme anxiety, the Protocol for its use has been adopted. The time out room, as indicated, is not used.

COMMENT ON PARAGRAPH 144:

All medicines for all users are prescribed by doctors specialists, and, in the event of necessity to change the medicines, it is done in the consultation with doctors specialists.

COMMENT ON PARAGRAPH 146:

The Institute "Komanski Most" intends that within the creation of individual work plans for users in the area of family and legal protection, the guardianship over the user is performed by a family member, and not by a professional from the Center for Social Work, and in particular the efforts that the institution makes with reference to making contacts of users with their family members (taking the users to home visits, which is their long-term practice).

COMMENT ON PARAGRAPH 157:

In accordance with paragraph 157 relating to material conditions in new facilities, where a high standard is found to have been reached, the CPT recommended the remedy of the defect that refers to the possibility that cabinets for personal belongings of users can be locked, which was carried out.

The recommendation was adopted and all locks were installed on the wardrobes of the users in all rooms. In the same paragraph, it was concluded that the sports ground equipped for football and basketball is used as a parking lot, and the CPT considers that this is not the appropriate use of sports in the institution. The recommendation was accepted and parking on this ground was prohibited.

COMMENT ON PARAGRAPH 158:

In accordance with paragraph 158, the CPT recommends removing the shutters from the window of the user premises in "Ljubović".

The public institution Center "Ljubović" notes that these are not "regular" shutters, but a sort of protection from the sun. Due to the large number of sunny days in Podgorica, it is necessary to provide shutters in the facility in each room. As the movable shutters are broken easily, quickly and often deliberately, despite the constant supervision of educators, the Center opted for this type of curtains, which were designed in their locksmith workshop, where it is serviced in the easiest and cheapest way.

COMMENT ON PARAGRAPH 159:

Pursuant to paragraph 159, the CPT recommends the establishment of a clear policy requiring that any staff member being the subject of the criminal proceedings for a criminal offense pertaining to his/her own work shall be suspended from duty.

A recommendation was adopted with the note that in the Public Institution Center "Ljubović" we act upon the positive legal regulations and the Code of Ethics for employees in the area of social and child protection. Each defendant employee who is the subject to prosecution will be suspended from duty until the final decision of the court.

COMMENT ON PARAGRAPH 160:

In accordance with the paragraph 160, the CPT recommends that all minors who are accommodated in the Public Institution - Center "Ljubović" are subject to appropriate transmissible diseases screenings. The recommendation has been complied with and the information sent to all centers for social work that prior to accommodation, it is necessary to conduct the transmissible diseases screening of every child.

COMMENT ON PARAGRAPH 161:

Pursuant to paragraph 161, it is recommended that the Public Institution - Center "Ljubovic" expands the number of staff members with the position of a nurse who should be responsible for the healthcare issues, including the dissemination of medicines and the confidentiality of health database of users.

Once again, we emphasize that Article 5 of the Rulebook on detailed conditions for the provision and use of services, the norms and minimum standards of services for the accommodation of children and youth in the institution and the small group community prescribes that the provider of accommodation service in institution and small group community is obliged to provide the "access to health services".

In addition, Article 11, defining in detail the "nutrition and availability of health services", prescribes that the service provider is obliged to provide the user with the health check and care during the illness.

Therefore, for the purpose of inclusive involvement in the community, it is envisaged that children accommodated in our institution are treated as children in their families. This means that they are to be treated in healthcare institutions in the local community, and that they are given the occasional prescribed therapy with supervision, that is, by the educators, as the parents do at home. Children with

severe mental or addictive issues are not foreseen to be accommodated in the Public Institution - Center "Ljubović", as the Law on the Treatment of Juveniles in Criminal Proceedings (Article 28) provides for a special institution for this group of children, which also includes a qualified medical staff and the program that is being implemented there. More specifically, Article 165 of the aforementioned Law stipulates that "the institutional measure of referral to a specialized facility shall be enforced in appropriate specialized facility designated by the state administration authority responsible for health", and that "a juvenile who was pronounced the institutional measure referred to in paragraph 1 shall be brought to the specialized facility accompanied by the health care worker from the health care institution in juvenile's place of permanent or temporary residence." Based on the above, it would not be popular to mix these two groups of institutions intended for the placement of juvenile perpetrators of criminal offenses. I also point out that in the event that we select the option of employing a nurse that would be responsible for preparation and provision of medicines, it would be necessary to engage not only one, but four such employees, in order to ensure a smooth work process, taking into consideration that the educational and work process in the institution lasts for 24 hours, and one can assume that medicines sometimes need to be given throughout the whole day, as well as during the night (e.g.: antibiotics should be given every 8 hours) etc. This paragraph contains another observation and recommendation of the CPT. In light of the lack of any regular psychiatric examination of the users of the Center Ljubović, the CPT recommends Montenegrin authorities to ensure that the psychiatrists regularly visit the Center. This recommendation was accepted and a letter was submitted to the Ministry of Labor and Social Welfare with the request for the implementation of this recommendation, in cooperation with the Ministry of Health.

COMMENT ON PARAGRAPH 163:

In line with the recommendation 163, the CPT recommends that the use of the "time out room" is always properly recorded, including the time of commencement and end of the measure, the person who authorized it, the underlying reasons and any substantial incidents.

A recommendation was adopted. The changed procedure of the use of "time out room" clearly stipulates this obligation and its application is regularly monitored.

COMMENT ON PARAGRAPH 164:

In line with the recommendation 164, the CPT recommends that the use of the "time out room" is foreseen to be defined by the Protocol which will more clearly indicate the obligations of the professional staff of the institution, as well as prescribe more detailed records of the measures taken. Recommendation was adopted. The procedure is changed in compliance with the suggestions. Obligations of educators in taking this measure are clearly defined.

COMMENT ON PARAGRAPH 165:

In accordance with the recommendation 165, the CPT recommends to Montenegrin authorities to ensure the establishment of the procedure by which taking care of users who are upset or showing aggressive behavior that cannot be adequately managed by "time out measure", will be taken over by qualified medical staff.

The recommendation is adopted and accordingly, we have addressed the Institute for Emergency Medical Services of Montenegro with a request to provide us with the conditions for the

implementation of this recommendation, which would be governed by the Memorandum of Cooperation.

COMMENT ON PARAGRAPH 167:

In accordance with the recommendation 167, the CPT recommends to ensure that the users of accommodation in Public Institution - Center "Ljubović" receive comprehensive information on their treatment, in the form of a brochure written in a language suitable for children, which includes information on their legal status and their rights, different stages of their stay in the Center and the mechanisms of complaints.

Recommendation is adopted. In line with the suggestions, a handbook is printed for children who are under the treatment, since this form of handbook for children who are being accommodated in "Ljubović" already exists.

In addition, brochures on children's rights and freedoms, created by the Protector of Human Rights and Freedoms, are at children's disposal.

COMMENT ON PARAGRAPH 169:

In compliance with the recommendation 169, the CPT recommends that self-injury is not considered a disciplinary misdemeanor and the internal instructions and protocols should be amended accordingly. The recommendation was adopted. The clause on pedagogical measures from the Rulebook has been deleted, with the note that this type of sanction has never been applied. Furthermore, it is stated in this paragraph that the CPT delegation was informed that the right of children placed in "Ljubović" to invite relatives could be limited and that they could be subjected to the segregation in their room and that from time to time they were not allowed to receive family visits, and that this is not prescribed by the Rulebook on pedagogical and protective measures, therefore, leaving this practice is recommended. In relation to these remarks, the Public Institution - Center "Ljubović" hereby informs the Committee that the decisions on the family members who will visit children and with which family members children can talk on the phone, is exclusively made by the competent Center for Social Work, which, when making the decision on the accommodation also submits approvals with the names of family members who are approved to contact with the children. The only limitation with regard to the visits of family members to users is that visits can be conducted only in compliance with the house rules, at the foreseen time schedule, from 10:30 to 12:00 in the morning and from 16:30 to 19:00 in the afternoon, which is communicated to the children, parents and guardians during the accommodation in the institution, and the House Rules are available and placed on the notice board in each building of the institution. It should also be noted that longer stay in rooms is not possible without the supervision of educators, particularly not for the duration that would prevent children from attending regular meals in the dining room (at least 4 times a day), school, sports, work and other activities, organized according to the plan for working with children, either within or outside of the institution.