



## **Report**

**to the authorities of North Macedonia  
on the visit to North Macedonia  
carried out by the European Committee  
for the Prevention of Torture and Inhuman  
or Degrading Treatment or Punishment (CPT)**

**from 2 to 10 December 2019**

The authorities of North Macedonia have requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2021) 9.

Strasbourg, 11 May 2021

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## EXECUTIVE SUMMARY

In the course of the 2019 periodic visit, the CPT's delegation reviewed the treatment and conditions of detention of remand and sentenced prisoners in the country's main prison establishments. It also paid particular attention to juveniles sentenced to imprisonment or to an educational measure at Ohrid Prison. In addition, the delegation examined the situation of persons deprived of their liberty by the police. Further, it carried out follow-up visits to the psychiatric hospitals in Demir Hisar and Negorci, as well as to Demir Kapija Special Institution for Mentally Disabled Persons.

The facilitation of the visit by the authorities of North Macedonia was excellent. However, due to their persistent failure to address numerous longstanding recommendations regarding the treatment and conditions of detention of persons held in penitentiary establishments, notably at Idrizovo Prison, the CPT decided, at its March 2020 plenary meeting, to re-open the procedure under Article 10, paragraph 2, of the Convention establishing the Committee. A list of areas requiring the authorities of North Macedonia to demonstrate, as a matter of priority, verifiable progress is set out paragraph 8 of this report.

### *Police custody*

In the course of the 2019 visit, in contrast to the improvements observed in 2010 and 2014, the CPT's delegation received many allegations of physical ill-treatment by police officers. The alleged ill-treatment consisted of slaps, punches, kicks and blows with truncheons or other objects, and occurred in the context of apprehension after a suspect had been brought under control or inside a police establishment for the purpose of extracting a confession. The report highlights a number of individual cases in which the alleged ill-treatment is supported by medical evidence. The CPT stresses the need to combat police ill-treatment through a multifaceted approach, comprising *inter alia* a competitive recruitment of police officers based upon clearly defined criteria, professional initial and in-service training of police officers and modern methods of crime investigation. Further, it must include the accountability of senior officers for their line management responsibilities and the imposition of appropriate sanctions on the perpetrators of ill-treatment. To address this serious problem, the Committee makes a number of specific recommendations to the authorities of North Macedonia.

As regards the implementation in practice of the fundamental safeguards against ill-treatment, the information gathered during the visit suggests that the relevant legal provisions were not being fully implemented in practice, despite the recent issuance of Standard Operating Procedures (SOP). In particular, several detained persons claimed that they had been denied the right to inform a third party until they were brought before a judge, and, as in 2014, many allegations were received from detained persons that they had been denied the right of access to a lawyer during the initial 24 hours of police custody. The CPT recommends that the authorities of North Macedonia ensure that all persons deprived of their liberty by the police benefit from the right of notification of custody and the right of access to a lawyer as from the very outset of their deprivation of liberty. It also recommends that the authorities put in place an arrangement for doctors to visit police premises.

Conditions of detention have improved in several police establishments in terms of their state of repair and hygiene. However, in particular at Bitola, Negotino, Ohrid and Strumica Police Stations, a number of deficiencies were observed (such as the lack of natural light and heating, insufficient artificial lighting, no supply of personal hygiene products, etc.) which need to be remedied. Further, all persons detained by the police should be provided with access to free of charge food and drinking water.

### *Prison establishments for adults*

The report describes the persistent failure of the authorities of North Macedonia to address certain fundamental and longstanding shortcomings of the prison system. These pertain in particular to the lack of a professional approach in managing complex situations, poor management and performance of staff, low staffing levels, poor quality of health-care provided to inmates, lack of an appropriate regime, inter-prisoner violence, squalid material conditions and endemic corruption of staff, notably at Idrizovo Prison.

The Committee takes note of the reduction in the prison population due to the adoption of the Amnesty Law and the progressive setting-up of a probation system. It encourages the authorities to adopt a comprehensive approach towards addressing the persistent overcrowding in certain parts of the prisons visited.

Most prisoners interviewed by the delegation stated that they had been treated correctly by prison officers. However, at Idrizovo Prison, the delegation received a number of allegations of physical ill-treatment (such as slaps, punches, kicks and blows with rubber batons) in response to recalcitrant behaviour or repeated requests to see a doctor. Further, inter-prisoner violence and intimidation remains a serious problem at Idrizovo and Skopje Prisons. Several cases of violence and psychological harassment which resulted in injuries (including serious self-harm) are highlighted in the report. Recommendations are made to tackle inter-prisoner violence and to combat any impunity in prison through effective investigations and prosecution, especially when serious bodily injuries are inflicted.

Once again, the CPT stresses the crucial role that prison staff play in ensuring a safe environment for prisoners. In this respect, the Committee takes note of the new provisions of the Law on the Execution of Sanctions on the minimum competence requirements of prison managers but it is critical of the fact that there is not yet a clear management line between the prison administration and prison directors. Further, specific recommendations are made to increase prison staffing levels (notably at Idrizovo Prison), to step up efforts to combat corruption and to provide a fully-fledged and permanent training system, professional path and clear legal status for prison staff.

As regards material conditions of detention, the CPT has noted the efforts to renovate the prison estate in recent years. That said, the situation at Idrizovo Prison remained appalling. The CPT's delegation observed major structural and longstanding deficiencies in Wings nos. 2, 5 and 8 and the so-called "ambulanta", such as poor levels of hygiene, a deplorable state of repair, high occupancy levels, an intermittent water supply and dilapidated sanitary facilities. The CPT also expresses its concern about the longstanding deficiencies at Kumanovo Prison (lack of permanent water supply), Skopje Prison (inadequate access to natural light, poor ventilation and an absence of electric sockets inside cells). These deficiencies (as well as those noted at Štip and Ohrid Prisons) must be rectified. The report references the interim measures taken by the authorities but, as regards Idrizovo and Skopje Prisons, the Committee recognises that the situation will only be satisfactorily resolved by the construction of new detention units.

The regime for sentenced prisoners at Idrizovo, Kumanovo and Štip Prisons remained impoverished with no purposeful activities on offer and no differentiation of treatment for the various categories of prisoner. The efforts invested in the risk assessment of inmates and the development of an individualised approach towards their reintegration into society have yet to produce any tangible impact. Efforts to provide prisoners with purposeful activities must be increased. As regards remand prisoners, the approach remained antiquated with prisoners confined to their cells for 23 hours a day with no other occupation than listening to radios.

The recent transfer of the responsibility for prison health care to the Ministry of Health has yet to deliver any improvement of the quality of care provided to prisoners. The findings of the delegation highlight the chronic lack of staff (notably at Idrizovo Prison), the problem of access to a doctor (often combined with corrupt practices), the poor state of the medical equipment in prison infirmaries, unsupervised distribution of medication by non-medical staff, difficulties in arranging access to specialist care (especially for inmates suffering from a mental disorder), and the lack of a uniform approach towards inmates with substance-use disorders. The Ministry of Health should urgently assess prison healthcare staffing needs and provide adequate training to health care professionals working in prisons. Further, specific protocols and practices for the treatment of inmates should be adopted, in particular, as regards the prevention of ill-treatment, medical screening, medical confidentiality and ethics, the distribution of medication and the management of prisoners with substance-use disorders.

The report also contains specific recommendations regarding various other issues, with a view *inter alia* to putting an end to the practice of mechanical fixation of agitated inmates in prisons, to increasing visiting entitlements and providing access to a telephone for remand prisoners, and to improving prison complaints and inspection procedures.

#### *Juvenile detention at Ohrid Prison*

The CPT is highly critical of the prolonged delays in opening the “new” Tetovo Correctional Institution and calls upon the Government to ensure that the establishment is brought into service as soon as possible.

Juveniles serving a prison sentence at Ohrid Prison stated that they were treated correctly by staff. However, about half of the juveniles held in the establishment as an educational measure claimed that they had been frequently subjected to physical ill-treatment by custodial officers, which consisted of slaps, punches and blows with a non-standard truncheon. The authorities must reinforce oversight at the establishment and reiterate to prison officers that all forms of ill-treatment are unacceptable and will be punished accordingly. Staff should also be provided with training in de-escalation and restraint techniques. Further, proactive steps need to be taken to address the inter-prisoner violence among juveniles at Ohrid Prison.

The material conditions of detention were adequate in the cells accommodating juveniles serving a prison sentence. However, they were poor and not appropriate for this age group in the multiple-occupancy cells for juveniles subjected to an educational measure. The provision of an adequate and tailored regime for the juveniles was hampered notably by the structural deficiencies of the establishment and the reduction in the number of staff as well as their intermittent presence. Steps must be taken to ensure that all juveniles are offered a full programme of purposeful activities tailored to their individual needs.

As regards health care, recommendations are made in the report to improve the medical screening upon admission, the distribution of medication and the treatment of juveniles with a history of drug abuse.

The report also contains specific recommendations regarding various other issues at Ohrid Prison. In particular, the initial and on-going training of custodial staff working with juveniles should be extended, the disciplinary measure of solitary confinement should be abolished in respect of juveniles and the imposition of a segregation regime on juveniles should only be applied in very exceptional circumstances and be surrounded by appropriate safeguards.

### *Demir Hisar and Negorci Psychiatric Hospitals*

The CPT acknowledges the efforts continuously made by the relevant authorities to implement a comprehensive programme of de-institutionalisation of psychiatric patients on the basis of the National Mental Health Strategy 2018-2025. That said, both at Demir Hisar and Negorci, there were a significant number of patients suffering from a chronic mental disorder who were no longer in need of inpatient care, but, due to the lack of appropriate community-based structures, had been held in the hospital for many years. The Committee encourages the relevant authorities to strive to find suitable community-based care for the above-mentioned patients.

In both hospitals, the delegation received no allegations from patients about deliberate ill-treatment by staff. Although instances of inter-patient violence did occur occasionally, staff appeared to intervene promptly and adequately in such cases.

Material conditions were generally good at Negorci Psychiatric Hospital, with the exception of Ward D (for chronic male patients) which was scheduled to be refurbished in the course of 2020. At Demir Hisar Psychiatric Hospital, a new ward for male geriatric patients (Ward 4) had recently been opened which offered very good living conditions overall. However, in several other wards, material conditions were very poor, and toilets and shower facilities in particular were totally dilapidated and in an appalling state of hygiene. The CPT recommends that the authorities of North Macedonia prepare and implement a comprehensive renovation plan at Demir Hisar Psychiatric Hospital. Pending the implementation of this plan, the authorities should take urgent steps to improve the state of repair of the sanitary facilities and to ensure an adequate level of hygiene throughout the hospital.

It is positive that, at Negorci Psychiatric Hospital, all patients were allowed to go outside into the open air every day. However, it is a matter of serious concern that, at Demir Hisar Psychiatric Hospital, many patients did not have such a possibility for weeks or even months on end. The CPT calls upon the authorities of North Macedonia to take steps without further delay to ensure that all patients at Demir Hisar are effectively able to benefit from outdoor exercise every day (with appropriate support and/or supervision if required). The aim should be to ensure that all patients benefit from unrestricted access to outdoor exercise during the day unless treatment activities require them to be present on the ward.

Due to prolonged vacancies, the number of psychiatrists was inadequate in both hospitals. Indeed, the extremely low number of ward-based staff (i.e. nurses and orderlies) did not allow for safe care to be provided to the number of patients present (in particular during night shifts). Moreover, it is regrettable that almost no specialist staff were employed at Negorci to provide patients with psychosocial activities. The authorities must improve the staffing situation in both hospitals.

Whilst acknowledging the efforts made by the management of Demir Hisar and Negorci Psychiatric Hospitals to provide patients with a range of therapeutic, rehabilitative and recreational activities, the CPT was concerned to note that the possibilities for patients to take part in such activities remained limited. For the great majority of patients, psychiatric treatment was predominately based on pharmacotherapy. The Committee recommends that steps be taken in both hospitals to further develop the provision of therapeutic and psychosocial activities based on a multi-disciplinary approach and individualised patient treatment plans.



At Demir Hisar and Negorci, mechanical restraint was used only infrequently and usually for short periods (i.e. one to two hours). That said, most of the specific recommendations made by the Committee in the report on the 2014 visit had not been implemented. In particular, at Demir Hisar, the delegation once again received several credible allegations from patients that they had been attached to a bed with metal chains and padlocks. Further, in both hospitals, there was still no permanent supervision of fixated patients by a member of staff and patients were sometimes subjected to mechanical restraint in their own bed within view of other patients.

Only a few patients were formally classified as ‘involuntary’. However, many patients who were formally classified as ‘voluntary’ were not allowed to leave the hospital on their own and were thus *de facto* deprived of their liberty, without benefiting from the safeguards provided for by law for involuntary patients. As regards involuntary civil placement procedures, it is matter of serious concern that, at Demir Hisar Psychiatric Hospital, patients were usually not seen by the judge and that, in a number of cases, no decision had been taken by the court for weeks or even months. Further, in both hospitals, no annual review of the placement of forensic patients had been carried out by judges for many years. Moreover, the relevant mental health legislation does not provide for any procedure on involuntary treatment of psychiatric patients, and, in practice, often no distinction was made between the involuntary placement and involuntary treatment of a patient. The report contains a number of specific recommendations to remedy the aforementioned shortcomings.

#### *Special Institution for Mentally Disabled Persons in Demir Kapija (‘Special Institution’)*

The CPT expresses its appreciation for the measures taken by the Ministry of Labour and Social Policy and other relevant social welfare authorities to progressively implement a national plan on de-institutionalisation of residents in social welfare institutions.

No allegations of ill-treatment were received from patients interviewed at the Special Institution, and, as compared with 2014, the situation seems to have significantly improved regarding violence between residents.

The CPT welcomes the fact that extensive renovation works had recently started in different parts of the Special Institution which were in a poor state of repair. It is also positive that bedrooms and communal areas were very clean. That said, the Committee is very concerned about the living conditions of residents from Wards C3 and C4 who had the most severe intellectual disabilities. The toilets and shower facilities in their wards were totally dilapidated and in an appalling state of hygiene. Further, residents from the two aforementioned wards had not been able to go out into the open air for months. The CPT calls upon the authorities of North Macedonia to take steps without further delay to remedy this unacceptable state of affairs.

The number of nursing staff remained generally adequate. That said, as regards orderlies, the situation had further deteriorated since the CPT’s 2014 visit. It is a matter of particular concern that residents from Wards C3 and C4 (22 in total) were cared for and supervised by only one orderly (during both day and night shifts). Further, dental care remained almost non-existent, and shortcomings were observed regarding the monitoring and treatment of bedridden residents.

As regards activities, it is positive that psychosocial rehabilitation plans have been prepared for residents and that most of the residents on Ward A and a number of residents on other wards were offered a range of occupational and recreational activities (such as drawing, painting, handicrafts, music therapy, etc.). However, for many residents, in particular on Wards B and C, the possibilities were insufficient or non-existent.

Finally, all residents, irrespective of whether they were deprived of their legal capacity, had been admitted to Demir Kapija Special Institution by decision of the competent social welfare centre. In this regard, the CPT recommends that the relevant authorities reinforce the legal safeguards by granting residents an effective right to bring proceedings to have the lawfulness of their placement and stay decided speedily and reviewed regularly by a court.

## I. INTRODUCTION

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

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as “the Convention”), a delegation of the CPT carried out a periodic visit to North Macedonia from 2 to 12 December 2019. It was the Committee’s thirteenth visit to the country.

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

- Mykola Gnatovskyy, President of the CPT (Head of Delegation)
- Dagmar Breznoščáková
- Thomas Feltes
- Slava Novak
- Vytautas Raškauskas
- Davor Strinović
- Olivera Vulić.

They were supported by Michael Neurauter, Deputy Executive Secretary, Ardita Abdiu, Head of Division, and Christian Loda of the CPT’s Secretariat and assisted by an expert, Birgit Völlm, Professor of Forensic Psychiatry, Medical Director of the forensic psychiatric hospital at the University of Rostock (Germany). Further, the delegation was assisted by four interpreters, Nataša Kolevska-Georgievska, Natalija Kunovska-Cingarska, Jasna Šoptrajanova and Blerina Starova-Slatku.

3. The list of establishments visited by the CPT’s delegation can be found in Appendix I.

4. The report on the visit was adopted by the CPT at its 102<sup>nd</sup> meeting, held from 30 June to 3 July 2020, and transmitted to the authorities of North Macedonia on 27 July 2020. The various recommendations, comments and requests for information made by the CPT are set out in bold type in the present report.

The CPT requests the authorities of North Macedonia to provide within **six months** a response containing a full account of action taken by them to implement the Committee’s recommendations and replies to the comments and requests for information formulated in this report. Further, the Committee would like to receive within **three months** a response to the recommendation made in paragraphs 21 and 90 and within **one month** a response to the recommendations made in paragraphs 130 and 169. In addition, it wishes to receive updates on an **ongoing quarterly basis** regarding measures taken in respect of the recommendations and requests for information in paragraph 60.

## **B. Consultations held by the delegation and co-operation**

5. In the course of the visit, the delegation held consultations with Renata Deskoska, Minister of Justice, Armend Arslani, Deputy Minister of Health, Gönül Bajraktar, Deputy Minister of Labour and Social Policy, Dejan Andonov, Assistant Minister of the Interior, Jovica Stojanovikj, Director for the Execution of Sanctions and Besir Deari, Deputy Director of the Bureau for Public Security of the Ministry of the Interior, as well as with other senior officials of the aforementioned Ministries. The delegation also met Ixhet Memeti, Ombudsman, in his capacity as Head of the National Preventive Mechanism (NPM) set up under the Optional Protocol to the United Nations Convention against Torture (OPCAT).

A list of the national authorities, other bodies and non-governmental organisations met by the delegation is set out in Appendix II to this report.

6. The co-operation received by the delegation throughout the visit was excellent in all the establishments visited. The delegation enjoyed rapid access to all places (including those which had not been notified in advance), was able to speak in private with all the detained persons it wished to interview and was provided with the information necessary for carrying out its task.

7. However, the principle of co-operation laid down in Article 3 of the Convention also requires that action be taken to improve the situation in the light of the Committee's recommendations. In this connection, the findings of the CPT's delegation during the December 2019 visit demonstrate a persistent failure by the authorities of North Macedonia to address numerous fundamental shortcomings regarding the treatment and conditions of detention of persons held in prison establishments and, in particular, at Idrizovo Prison. Some of these shortcomings have been the subject of recommendations by the CPT in its reports on visits it has carried out to the country since 2006 which indicates that the goal to finally establish a functioning prison system has not been attained, despite the commitments made by the two former Prime Ministers who have consecutively been at the helm of the Government over the last decade.

For these reasons, the CPT decided at its 101<sup>st</sup> meeting (from 2 to 6 March 2020), to re-open the procedure under Article 10, paragraph 2, of the Convention and informed the authorities accordingly by letter on 24 April 2020.<sup>1</sup>

8. At its 102<sup>nd</sup> plenary meeting (from 30 June to 3 July 2020), the Committee decided to keep open the procedure under Article 10, paragraph 2, of the Convention, as the systemic and persistent shortcomings of the penitentiary system outlined in its previous reports, as well as in the text of the current one, had still not been adequately addressed by the authorities of North Macedonia. The authorities of North Macedonia need to address, in a comprehensive manner, both the glaring deficiencies in the living conditions identified, notably at Idrizovo Prison, and the need to establish a professional prison service capable of managing a modern prison. In this respect, the CPT wishes to observe verifiable progress in particular in the following areas:

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<sup>1</sup> Previously the Committee had decided to resort to the opening of the same procedure of the Convention in the course of its 92<sup>nd</sup> plenary meeting held from 6 to 10 March 2017. The procedure was closed by letter sent by the President of the CPT to the former Prime Minister Zoran Zaev following his undertakings that the Government would address the serious concerns raised by the Committee in its report on the 2016 ad hoc visit to the country.

i. at Idrizovo Prison:

- to provide safe and appropriate conditions of detention for all inmates accommodated in the closed-regime units and “*ambulanta*”, pending the completion of the reconstruction programme of the establishment funded by the Council of Europe Development Bank (CEB) (see paragraph 60);<sup>2</sup>
- to introduce a clear system of accountability for corrupt activities of staff to be achieved through measures such as the systematic screening of all persons entering and leaving the prison, introduction of an effective complaints system, and the application of appropriate sanctions whenever corrupt practices are exposed. Further, the results of the investigation carried out by the Special Prosecutor’s Office on Anti-Corruption and Organised Crime should also be communicated to the Committee (see paragraph 52);<sup>3</sup>

ii. at Idrizovo and Skopje Prisons:

- to increase the staffing complements of properly trained prison officers in order to ensure effective control of the establishments and the ability to offer an appropriate regime to prisoners (see paragraph 49);

iii. in respect of all prisons:

- to establish a functioning prison management system consisting of a clear chain of command between the DES and prison directors and a clear management path (in terms of career development, job security and planning), including transparency in the appointment of prison directors (see paragraph 53);<sup>4</sup>
- to provide all prison staff with a comprehensive induction training programme and to offer in-service training activities to maintain/upgrade their skills. Such training should be delivered by the fully operational Prison Staff Training Centre at Idrizovo;<sup>5</sup>
- to significantly improve the regime of sentenced and remand prisoners by providing them with a range of purposeful activities. The aim must be to enable all prisoners to spend a reasonable part of the day outside their cells, in line with long-standing recommendations made by the CPT (see paragraphs 71, 73 and 74) and to recruit additional educators;<sup>6</sup>
- to ensure the full, unconditional, responsible engagement of the Ministry of Health in the provision of health care to prisoners. In particular, this should include a general assessment of the needs of the inmate population, an increase in health-care staffing levels, the refurbishment of prison health-care units, the provision of adequate training to health care staff and the putting in place of comprehensive and periodic quality control of the provision of health care by the Ministry of Health (see paragraphs 80, 82, 90, 92 and 93).<sup>7</sup>

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<sup>2</sup> See also paragraphs 41 and 42 of the report on the 2006 visit (CPT/Inf (2008) 5), paragraph 28 of the report on the 2010 visit (CPT/Inf (2012) 4) and paragraphs 24 and 67 of the report on the 2011 visit (CPT/Inf (2012) 38).

<sup>3</sup> See also paragraph 43 of the report on the 2014 visit (CPT/Inf (2016) 8) and paragraphs 8 to 10 and 14 of the report on the 2016 visit (CPT/Inf (2017) 30).

<sup>4</sup> See also paragraph 40 of the report on the 2006 visit (CPT/Inf (2008) 5), paragraph 26 of the report on the 2010 visit, paragraphs 27 and 28 of the report on the 2014 visit and paragraph 5 of the report on the 2016 visit.

<sup>5</sup> See also paragraph 22 of the report on the 2007 visit (CPT/Inf (2008) 22), paragraphs 11 and 12 of the report on the 2008 visit (CPT/Inf (2008) 31) as well as paragraphs 8 to 10 of the report on the 2016 visit.

<sup>6</sup> See paragraph 66 of the report on the 2014 visit and paragraphs 19 and 21 of the report on the 2016 visit.

<sup>7</sup> See paragraphs 74 to 76 of the report on the 2006 visit and paragraph 33 of the report on the 2016 visit.

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

9. At the end of the visit, the CPT's delegation presented its preliminary findings to the national authorities. At that meeting, it made several immediate observations under Article 8, paragraph 5, of the Convention, and in particular called upon:

- the Ministry of Justice to ensure that, at Idrizovo Prison, every prisoner is provided with his own bed in a designated cell, that a disinfection of vermin is performed in Wings Nos. 2, 5, and 8 and the "*ambulanta*", that all sanitary facilities are kept in an acceptable state of repair and hygiene and that the arrangements for the provision of food are revised. Further, it requested that an action plan with a view to withdrawing from service Wings Nos. 2, 5, 8 and the "*ambulanta*" of Idrizovo Prison be created and that the existing reconstruction plan of the prison be revised, in close co-operation with the Development Bank of the Council of Europe;
- the Ministry of Health to ensure that all patients at Demir Hisar Psychiatric Hospital are effectively able to benefit from outdoor exercise every day. To this end, patients with reduced mobility should be provided with the necessary assistance;
- the Ministry of Labour and Social Policy to ensure that residents from Wards C3 and C4 of Demira Kapija Special Institution for Mentally Disabled Persons have access to functional sanitary facilities and that these facilities are kept in an acceptable state of hygiene; all residents should be able to benefit from outdoor exercise every day. To this end, residents with reduced mobility should be provided with the necessary assistance.

10. By communications dated 28 February, 2 March, 25 March, 2 April, 30 April and 15 June 2020, the authorities of North Macedonia provided information on the action taken in respect of the aforementioned immediate observations, as well as on other matters raised by the CPT's delegation in its preliminary observations. This information has been taken into account in the relevant sections of the present report. However, the CPT wishes to note at this point that it is particularly concerned that no information has been received to date from the Ministries of Health and Labour and Social Policy in respect of the immediate observations raised above.

**D. National Preventive Mechanism**

11. The Republic of North Macedonia ratified the Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) in December 2008 and nominated the Ombudsman as the designated institution to perform the function of National Preventive Mechanism (NPM).<sup>8</sup> In particular, a separate unit within the Ombudsman was created in order to execute this specific task.

At the time of the CPT's 2019 periodic visit, the NPM staffing complement of three full-time legal officers operating within a separate section of the Ombudsman Office was filled. The legal officers performed exclusively NPM-related duties and were conducting regular and unannounced visits to places of deprivation of liberty,<sup>9</sup> assisted by a pool of experts on an ad hoc basis (in the field of psychiatry, forensic medicine and criminology) as well as NGO representatives. The NPM was regularly publishing its visit reports addressing specific recommendations to the national authorities. In particular, the NPM had published a special report on an ad hoc visit to Idrizovo Prison, coming to similar conclusions as the CPT in terms of the poor material conditions and the impoverished regime on offer to prisoners.<sup>10</sup>

**The CPT takes note of the full operational status of the NPM and trusts that the authorities of North Macedonia will ensure that the NPM is provided with sufficient resources to effectively carry out its mandate.**

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<sup>8</sup> See the Law on supplementing and amending the Law on the Ombudsman, Official Gazette No. 114, 14 September 2009.

<sup>9</sup> The NPM had conducted ten visits to places of deprivation of liberty in the course of 2018 and had also published a thematic report on its visit to Idrizovo Prison of March 2017.

<sup>10</sup> See [http://ombudsman.mk/EN/national\\_preventive\\_mechanism/reports/special\\_reports.aspx](http://ombudsman.mk/EN/national_preventive_mechanism/reports/special_reports.aspx).

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

### A. Police custody

#### 1. Preliminary remarks

12. The deprivation of liberty of criminal suspects by the police is regulated by the 2006 Law on Police<sup>11</sup> and the 2010 Criminal Procedure Code (CPC).<sup>12</sup> A person apprehended or held by the police must be brought in front of a custody officer at a police establishment within six hours and served with a decision on his/her detention.<sup>13</sup> At the same time, the custody officer is also under an obligation to inform the competent prosecutor of the detention.<sup>14</sup> The criminal suspect must appear in front of the relevant judge on preliminary proceedings within 24 hours of his/her deprivation of liberty in order to be remanded in custody or released.<sup>15</sup>

Persons apprehended while committing a misdemeanour (e.g. for disruption of the public order) may be detained by the police for up to twelve hours and persons under the influence of alcohol or other psychoactive substances for up to eight hours.<sup>16</sup> Further, persons may also be detained by the police for the time needed to establish their identity, but for no longer than a period of three hours.<sup>17</sup> Finally, as regards informative talks, pursuant to Section 279, paragraph 4, of the CPC, the police may summon citizens to a police station to be interviewed about a case for a maximum period of four hours.

In the course of the 2019 visit, the delegation did not gather any information which would suggest that the statutory time-limits for police custody were not being respected in practice in the police stations visited.

13. The authorities of North Macedonia informed the CPT's delegation at the outset of the visit of a number of measures being taken in order to address previous recommendations by the Committee to strengthen the protection of persons deprived of their liberty by the police from any forms of ill-treatment. The following are of note:

- the adoption of Standard Operating Procedures (SOPs) in 2018 as a mandatory instruction for all police officers in order to standardise and align practices related to the treatment of persons deprived of their liberty in the light of the national legislation and international standards (see paragraph 23);

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<sup>11</sup> See Section 50 of the Law on Police.

<sup>12</sup> In particular, in line with Section 157 (apprehending with a court order), Section 158 (deprivation of liberty without a court order) and Sections 159 to 161 (detention) of the CCP.

<sup>13</sup> Pursuant to the provisions of Section 160, paragraph 1, of the CCP.

<sup>14</sup> I.e. according to Section 160, paragraph 4, of the CCP.

<sup>15</sup> I.e. Section 161, paragraph 3 of the CCP.

<sup>16</sup> I.e. Section 102 of the Law on Misdemeanours.

<sup>17</sup> Pursuant to Section 39, paragraph 4, of the Law on Police.



- the adoption in 2017 of a special legislative package on the creation of an External Oversight Mechanism (EOM) on the work of the police,<sup>18</sup> consisting *inter alia* of a dedicated team of three prosecutors from the Specialised Anti-Corruption and Organised Crime Office of the Prosecutor at the Basic Court of Skopje (specialised prosecutorial team). The team has national competence over crimes allegedly committed by police officers and prison staff, whether on- or off-duty. Further, the EOM should also consist of a three-member civilian oversight body on the work of the police operating within the Ombudsman's Office (see paragraph 22);
- the adoption of a Law on Free Legal Aid in 2019, extending the scope of the application and eligibility criteria for the provision of free legal aid.

## 2. Ill-treatment

14. In the course of the 2019 visit, the CPT's delegation interviewed a considerable number of remand prisoners who had recently been in police custody. In contrast with the previous encouraging trends observed in the course of the 2010 and 2014 periodic visits, many persons claimed that they had been subjected to physical ill-treatment by police officers at the time of their deprivation of liberty.

The alleged physical ill-treatment consisted mainly of slaps, punches, kicks, having one's head banged against a hard surface, blows with truncheons or other non-standard instruments (such as "Motorola" type walkie-talkies and electric torches) to various parts of the body (i.e. head, chest, ribs, legs and arms). Most of the allegations concerned the time of apprehension (after the person concerned had been brought under control and was lying on the ground with their hands cuffed behind their backs) and/or during transportation to police premises in a designated vehicle.

Further, several persons claimed that they had been subjected to beatings inside a police station for the purpose of extracting a confession or other information after they had been handed over by the custody officer/head of shift to the relevant criminal police officer. The above-mentioned allegations of physical ill-treatment concern police officers from all over the country, and notably those from Bitola, Gostivar, Kočani, Skopje, Strumica and Tetovo. In addition, a few allegations were received relating to the infliction of slaps and of verbal abuse of female detainees by police officers, as well as of insults of a racist nature directed against detained persons from a particular ethnicity (notably Roma). Finally, reference should also be made to the allegations of physical ill-treatment of remand prisoners at Skopje Prison allegedly inflicted by members of the Special Support Unit of the Ministry of the Interior which are described in paragraph 42.

15. The CPT wishes to highlight the following cases of alleged ill-treatment for the purpose of illustration. While some of the persons met by the delegation stated that they wanted to lodge a complaint about the ill-treatment,<sup>19</sup> others provided information on the condition that their names would not be divulged.

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<sup>18</sup> The package in question consisted of amendments to six different existing pieces of legislation and in particular: the Law on Courts, the Law on Public Prosecutor's Office, the Law on Public Prosecutor's Service, the Law on Internal Affairs, the Law on Police, the Law on Execution of Sanctions and the Law on the Ombudsman.

<sup>19</sup> In this respect, it is incumbent upon each person to lodge a complaint with the relevant authorities as providing the CPT with details of an allegation of ill-treatment does not constitute an official complaint. This was made clear to the persons met by the CPT's delegation during the visit.

- i) A person at Skopje Prison who had been arrested on 29 November 2019 for a public order disturbance, alleged that he was repeatedly kicked and punched all over his body by two uniformed police officers after he had been immobilised on the ground and his hands cuffed behind his back. Subsequently, he was transferred to Gazi Baba Police Station for identification purposes and thereafter to Skopje Prison. When examined by the prison doctor on 2 December 2019, the following injuries were recorded in his medical file: “*contusion of the right shoulder, right thorax, excoriation on the left upper and lower arm, excoriation of the upper part of the left hand excoriation on the right knee and left leg due to alleged police ill-treatment.*” Further, at the time of the CPT’s visit (i.e. on 3 December 2019) the delegation’s forensic doctor examined the prisoner, found on him the same injuries described above and assessed them as being consistent with the alleged physical ill-treatment.
- ii) A person met at Skopje Prison had been arrested in Gevgelija on 18 July 2019 after trying to flee from the police, first in his truck and subsequently by swimming in the Vardar river. He alleged that after having been extracted from the river, he had been subjected to truncheon blows, punches and kicks to various parts of his body (i.e. head and arms) by several police officers which caused him to black out. He was subsequently transferred to Gevgelija Hospital where his wounds were stitched and dressed. At the time of his admission to Skopje Prison on 19 July 2019, the following injuries were recorded in his medical file by the prison doctor: “*injuries of the head (front and parietal region), swelling of the face and injury to the body*”. The delegation’s forensic doctor examined the prisoner on 3 December 2019 and confirmed the existence of scars of an age and shape consistent with the description of the alleged physical ill-treatment.<sup>20</sup> Information about this case had been reportedly referred by the Director of Skopje Prison to the specialised prosecutorial team.
- iii) A person met at Štip Prison who had been apprehended in the street in Kočani on 4 December 2019 on the basis of an existing court warrant, alleged that he was struck several times on the back of his head with a standard-issue police torch by a police officer, as well as being subjected to kicks to the body after falling to the ground, which had caused him to faint. The remand prisoner told the delegation that the pretext for the alleged violence was the affront to the police for not surrendering voluntarily to the law enforcement authorities upon his return from a foreign country. According to the medical file, he was transferred to the local hospital where he received three stitches to the wound on his head, medication and an x-ray of his skull, which was performed due to his vomiting, persistent headache and dizziness.<sup>21</sup> When examined by the delegation’s forensic doctor on 5 December 2019, the person in question displayed the following injuries, which were assessed as being consistent with the alleged ill-treatment: “On the head right parietal region, two wounds with stitches measuring 2 cm and with contusion marks around the wound, 4 cm in diameter. The third injury was on the parietal region on the top of the head, contusion, diameter 3 cm. All these three injuries were fresh. He complained about a severe pain on the left side of the chest, lateral side. He had pain during breathing but also during coughing

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<sup>20</sup> The remand prisoner displayed the following injuries when examined by the CPT delegation’s forensic doctor on 3 December 2019: on the left forehead, two scars 2 x 1 cm, back of the head, one scar 1 x 0.5 cm and a small scar on the left hand.

<sup>21</sup> A CT scan of the brain could not be performed due to the malfunctioning of the machine and was later undertaken at Skopje Clinical Centre on 6 December 2019 upon an immediate observation of the CPT’s delegation. The examination confirmed that there had not been any serious injury to the brain.

when he had an intense pain in his chest. On the left knee and upper leg on the frontal side parallel hematoma, bluish, measuring 4 x 1 cm and 6 x 1 cm. On the right knee excoriation. On the left lower leg in the middle and down linear hematoma 3 x 1 cm, blue in colour. On the right lower leg, small hematoma, blue in colour. On the lateral side of the right knee, fresh excoriation, on the lateral side of the right lower leg and in the region of the knee three excoriations, all fresh wounds. Left upper arm on the back in the middle, swelling measuring 4 x 4 cm, very painful on palpation. On the right hand, wound measuring 2 x 5 cm, fresh with some dry blood marks. On the right palm of the arm, two wounds 1.2 and 1.5 cm in size, all fresh. On the palm two excoriations. On the base of the right thumb, on the hand, five multiform excoriations and in the middle 1 x 5 cm. On the fourth finger of the right hand, three excoriations, all fresh.”

- iv) A person met at Skopje Prison, who had been arrested at a petrol station on 6 October 2019 in Strumica, alleged that, while lying on the ground handcuffed behind his back, he had been punched, kicked and subjected to truncheon blows by one particular police officer. He was subsequently transferred to Strumica Police Station where allegedly the same police officer continued to punch and kick him in the course of several interrogation sessions while he was seated on a chair in an office, purportedly in order to extract information on the suspect’s accomplices. It was only at the time of his hearing on the following day that the judge of preliminary proceedings ordered his hospitalisation at the Skopje Clinical Centre. The following diagnosis was recorded: *“contusion of the head, hematomas around both eyes, excoriations on the left leg. He was complaining about pain in the head, chest and left leg. He also said that he lost consciousness and he vomited a few times. Upon examination the doctor found hematomas around both eyes, excoriation of the head, left leg and buttocks side.”* Information about this case had been reportedly referred by the Director of Skopje Prison to the specialised prosecutorial team.
- v) A person met at Skopje Prison who had been arrested *in flagrante* in the street in Gostivar on 29 October 2019 in relation to a theft, alleged that he was initially slapped on his face and thereafter, once he had fallen on the ground, he was kicked and stamped on by two police officers. Subsequently, following his transfer to Gostivar Police Station, the alleged ill-treatment continued in the form of several slaps to his face while he was sitting on a chair with his hands cuffed behind his back. Upon admission to Skopje Prison the following entry was recorded in his medical file on 31 October 2019 by the prison doctor: *“injury hematoma on the right ear”*. When examined by the delegation’s forensic doctor on 3 December 2019 he displayed the following injuries which were assessed as compatible with the alleged ill-treatment: *“On the left knee, lateral side, hematoma, 10 x 3 cm and in the middle part hematoma the size of a palm of the hand. He is complaining of the pain in the lumbar region. He cannot hear in his right ear.”* The Director of Skopje Prison had reportedly informed the relevant prosecutor in Gostivar of the above-mentioned injuries.

- vi) Another person met at Skopje Prison who had been arrested *in flagrante* in Gostivar on 29 October 2019 in relation to the same criminal offence as mentioned in point v) above, alleged that he had been subjected to blows with truncheons and punched and slapped about the head by a group of police officers in civilian clothes. At Gostivar Police Station he was allegedly slapped on his face apparently for the purpose of getting him to confess to multiple criminal offences. Upon his medical screening conducted at the admission to Skopje Prison, the following entry was included in his medical file: "*hematoma on the right eye and on the back due to beatings sustained at Gostivar Police Station*". The Director of Skopje Prison had reportedly informed the relevant prosecutor in Gostivar of the above-mentioned injuries.
- vii) A person met at Skopje Prison who had been arrested on 4 October 2019 in Strumica alleged that, while lying on the ground with his hands cuffed behind his back, he was kicked and hit several times with a "Motorola" type walkie-talkie on his head by one particular police officer. He reportedly blacked out twice. Subsequently, he was transferred to the emergency unit of local hospital where the following diagnosis was recorded: "*contusion of the head with hematomas around the eyes and he complains of headaches and pains in his chest.*"
- viii) A person met at Ohrid Prison who had been arrested on 21 August 2019 in Prilep in his vehicle alleged that two police officers had banged his head twice against his car's side window. Subsequently, he was transferred to Prilep Police Station whereupon, due to the profuse bleeding from his face, the custody officer decided to refer him to the local hospital for treatment. There, he also received facial surgery because he had lost some teeth. The file drawn up at Ohrid Prison at the time of his medical screening on admission on 23 August 2019 bore the following entry: "*laceration of the lower lip*".

16. By letter dated 25 March 2019 which was received in response to the preliminary observations of the CPT's delegation, the Ministry of the Interior informed the Committee that a message had been sent on 26 February 2020 by the Department on Internal Control, Criminal Investigations and Professional Standards (DIC) to all police stations in the country, as well as to all organisational units of the Ministry of the Interior, stressing that appropriate measures would be taken if any recorded violation was found, as well as reminding all police staff of the necessity for the strict observance of the existing legislation and instructions and the Code of Conduct in dealing with detained persons.

The above-mentioned letter also referred to an increased number of inspections of police establishments and organisational units of the Ministry of the Interior that would be undertaken in the future, as well as planned training activities for police officers, in particular on the proper implementation of the SOPs.

17. In the light of the delegation's findings and observations in the course of the 2019 visit, it is incumbent on the authorities of North Macedonia to take the necessary measures to combat police ill-treatment through a multifaceted approach, comprising: a competitive recruitment process of police officers based upon clearly defined selection criteria; an educational training course for all new recruits and existing police officers with a particular emphasis on modern methods of crime investigation in accordance with human rights principles (see paragraph 18); the accountability of senior officers for their line management responsibilities; the imposition of appropriate sanctions (criminal and disciplinary) on perpetrators of ill-treatment and those who fail to prevent it; and the existence of effective and independent procedures for examining complaints and other relevant information regarding alleged ill-treatment by police officers (see also paragraph 21).

In fact, combating ill-treatment entails not only the adoption of the appropriate legal norms and SOPs but also taking the necessary steps to ensure their implementation, including the timely transmission of information on allegations of ill-treatment to the competent judicial and prosecutorial authorities (see paragraph 85).

18. Moreover, the Committee reiterates that it is necessary for the competent authorities to promote a fundamentally different approach towards methods of police investigation. It is self-evident that a criminal justice system which places a premium on confession evidence creates incentives for officials involved in the investigation of crime to use physical or psychological coercion. First and foremost, the precise aim of such questioning must be made crystal clear: that aim should be to obtain accurate and reliable information in order to discover the truth about the matter under investigation, not to obtain a confession from somebody already presumed, in the eyes of the interviewing officers, to be guilty.

In addition to the measures highlighted below in paragraph 19, such an approach must involve the adoption of detailed instructions on the proper questioning of criminal suspects. Specific training on professional interviewing techniques should be regularly provided to police operational officers and investigators. The training should place particular emphasis on an intelligence-led and physical evidence-based approach, thereby reducing reliance on information and confessions obtained during questioning for the purpose of securing convictions. Various approaches towards investigative interviewing exist within Europe which may serve as a model upon which to promote a new approach.<sup>22</sup>

A system of ongoing monitoring of police interviewing standards and procedures should also be implemented in order to prevent ill-treatment and facilitate the investigation of any complaints of ill-treatment. This requires an accurate recording of police interviews which should be conducted with electronic audio and video recording equipment. It should also be required that a record be systematically kept of the time at which interviews start and end, of any request made by a detained person during an interview, and of the persons present during each interview.

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<sup>22</sup> See, for example, "A brief introduction to investigative interviewing: A practitioner's guide" ([Council of Europe 2018](#)). Further, reference should be made to the substantive section of the 28<sup>th</sup> General Report of the CPT on "Preventing Police Torture and other Forms of Ill-Treatment – Reflections on Good Practices and Emerging Approaches" (pages 29-34 of [CPT/Inf\(2019\)9](#)).

Further, the CCP does not provide for specific provisions on the conduct of interrogations of detained persons by police officers. In this respect, the delegation was able to verify that the specific forms indicating the time of the start and end of interrogation sessions and the name of the inspector conducting it which had been introduced in the context of the SOPs were in use and adequately filled in at the visited police establishments.<sup>23</sup> At the time of the 2019 visit, several detained persons complained about the fact that, in addition to the ill-treatment inflicted, they had been subjected to long interview sessions in inspectors' offices without breaks or without being offered water or food, all the while being handcuffed. Further, with the exception of juveniles, interviews with criminal suspects were in general not audio/video recorded.

**19. The CPT recommends that the authorities of North Macedonia act to ensure that police officers carrying out apprehensions of criminal suspects, as well as crime inspectors, carry out their duties in accordance with the relevant provisions of the Criminal Procedure Code. To this end, police officers must be trained in preventing and minimising violence in the context of an apprehension. For cases in which the use of force nevertheless becomes necessary, they need to be able to apply professional techniques which minimise any risk of harm to the persons whom they are seeking to apprehend. Further, professional training for criminal inspectors should also be provided on appropriate interview and investigation techniques and the prevention of ill-treatment. Such targeted activities should be included in the regular training modules of police inspectors. More generally, the CPT would like to be informed of the different elements that make up the rigorous recruitment procedures for police officers.**

Further, the CPT recommends that the authorities of North Macedonia take effective measures in order to introduce a different approach to criminal investigation based on the precepts of investigative interviewing of criminal suspects (see paragraph 18). To this end, all police stations within the country establish dedicated interview rooms with audio and video equipment for recording police interviews. The Committee also reiterates its recommendation that the authorities draw up a code of conduct for police interviews. The code should deal, *inter alia*, with the following aspects: systematic notification to the detainee of the identity of the persons present during the interview (name and/or number) as well as of the right of the detainee to remain silent during the interview; the authorised duration of an interview; the rest periods between questioning sessions and breaks during an interview; the place(s) where an interview can be conducted; questioning of persons under the influence of psychoactive substances or affected by recent concussion. The code should also indicate the systematic audio and video recording of the time each interview begins and ends, the identity of every person present during the interview, any request made during the interview by the detained person and questions asked during the interview. The situation of particularly vulnerable persons (e.g. with mental disorders) should carry specific safeguards. Finally, persons being interviewed should not be forced to stand for prolonged periods or placed in stress positions and must have ready access to water and be offered food (i.e. something more substantial than a sandwich) at appropriate stages of the interview.

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<sup>23</sup> In addition, special safeguards apply in respect of juveniles who can be interviewed only in the presence of their lawyer, parents and designated social care staff and female detained persons who should be accompanied by female police staff during interrogation sessions.

### 3. Investigations into possible cases of police ill-treatment

20. The existence of effective procedures for examining complaints and other relevant information regarding ill-treatment by the police is an important safeguard against ill-treatment of persons deprived of their liberty. The prohibition of torture and other forms of ill-treatment is undermined each time officials responsible for such offences are not held to account for their actions. If the emergence of information indicative of ill-treatment is not followed by a prompt and effective response, those minded to ill-treat persons deprived of their liberty will quickly come to believe – and with very good reason – that they can do so with impunity.

In the course of the visit, the CPT's delegation examined the External Oversight Mechanism (EOM) which carries out investigations into complaints of ill-treatment (see paragraph 13). The EOM provides for a three-pronged approach:

- 1) the creation of a specialised team of three prosecutors of the Anti-Corruption and Organised Crime Prosecutor and attached to the Basic Court of Skopje entrusted with the investigation and prosecution of crimes allegedly committed by law enforcement officials;
- 2) the reform of the Department of Internal Control, Criminal Investigation and Professional Standards of the Ministry of the Interior (DIC) as the main administrative complaint mechanism for police misconduct;<sup>24</sup>
- 3) the setting-up of a three-member external civilian oversight mechanism of the police within the Ombudsman's Office, composed of representatives of civil society appointed by Parliament, with the authority *inter alia* to assist potential victims of police misconduct, review internal police investigations into episodes of alleged misconduct and conduct its own interviews with alleged victims, perpetrators and witnesses of police misconduct.<sup>25</sup>

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<sup>24</sup> The DIC is now headed by a Director at the level of Assistant Minister and has seven staff members, reportedly recruited according to their experience and integrity (e.g. absence of disciplinary proceedings). Further, the DIC is organised into three departments which deal in particular with internal control (e.g. professional integrity tests), criminal investigations and professional standards (e.g. violations of the code of conduct). In particular, since the beginning of 2018, the DIC had processed a total of 43 complaints of alleged police misconduct vis-à-vis detained persons: 26 of them lacked sufficient evidence, 13 were assessed as ungrounded and three as grounded. These three cases concerned a total of five police officials against whom the DIC had pressed criminal charges for violation of Sections 131 (i.e. infliction of severe bodily injury) and 143 (i.e. harassment in the performance of duties) of the Criminal Code (CC). The police officers in question had been suspended pending the outcome of their respective disciplinary proceedings.

<sup>25</sup> Pursuant to Section 11d of the Law Amending the Law on the Ombudsman Macedonia.

21. In the course of the 2019 visit, the CPT's delegation met with the team of three prosecutors of the specialised prosecutorial team and was informed that since their appointment in April 2018 they had started investigating cases of alleged misconduct of detained persons by law enforcement officials.<sup>26</sup> The prosecutors confirmed that they were receiving information on possible criminal offences by law enforcement officers from the DIC and prison establishments *in primis*. Two investigations that they had carried out into alleged ill-treatment of detained persons by police officers had reached the judicial stage of proceedings.<sup>27</sup> That said, the specialised prosecutors expressed their concern that none of the nine judicial police officers (investigators) had yet been recruited to support them which meant that they had to rely on the DIC in particular to conduct pre-investigative actions (e.g. interviews with staff, witnesses and examination of CCTV recordings). However, the DIC staff were not under the direct authority of the prosecutors, nor were they appropriately trained to carry out the functions of a specialised investigator.<sup>28</sup> Further, the DIC referred to them many complaints which clearly contained no identifiable elements of any criminal responsibility by law enforcement officers and which consumed a disproportionate amount of their limited resources.

**The CPT recommends that the authorities of North Macedonia appoint forthwith the requisite number of judicial police officers required to support the Anti-Corruption and Organised Crime Prosecutor unit attached to the Basic Court of Skopje. This should also allow the DIC to be relieved of the task of conducting criminal investigations into complaints of police ill-treatment and to focus exclusively on the disciplinary responsibility of police staff for any professional misconduct.**

22. As mentioned above, a third component of EOM consists of the creation of a three-member civilian oversight body on the work of the police tasked to assist potential victims and their families in their complaints against police misconduct, as well as assisting them in the context of court and complaint proceedings by providing relevant information it might possess in the light of its oversight powers. The civilian control mechanism should also be mandated to access the relevant documentation concerning the treatment of detained persons and securing material and verbal evidence through its own interviews (see paragraph 20). The CPT's delegation was informed that the three representatives of civil society had finally been appointed in the course of January 2020 and had consequently taken up their functions in the office of the Ombudsman.

**The Committee would like to receive information on the activities of this civilian oversight body on the work of the police.**

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<sup>26</sup> Allegedly perpetrated by police officers as well as by prison custodial staff.

<sup>27</sup> Such cases had been referred by the DIC as mentioned in footnote 24.

<sup>28</sup> The specialised prosecutors told the delegation that the DIC could not gather information in accordance with the CPC and perform investigative actions on their behalf, in particular in the field.



#### 4. Safeguards against ill-treatment

##### a. introduction

23. As mentioned in paragraph 13 above, the Ministry of the Interior had issued revised SOPs in 2018 concerning the treatment of persons apprehended and detained by the police. The mandatory instruction consists of a compilation of international standards on the prevention of ill-treatment, a national legal framework on fundamental safeguards, specific tasks and instructions on how to ensure their implementation in practice and examples of forms and custody registers to be compiled by police staff. The most important innovation is the designation of the figure of custody officer within each police station<sup>29</sup> who is tasked with issuing a decision on the detention of an individual, as well as with overseeing the correct application of safeguards in practice. At the outset of the visit, the delegation was informed that all 54 designated custody officers had been trained on the content and application of the SOPs.

##### b. notification of custody

24. Section 34 of the 2006 Law on the Police guarantees to persons deprived of their liberty by the police the right to inform a member of his/her family or another close person about their situation. However, the information gathered during the 2019 visit suggests that this provision was not being fully implemented in practice despite the recent issuance of SOPs. More particularly, several allegations were received that persons in police custody had been denied this right until the moment they were brought before a judge. Further, the delegation noticed that in certain police stations there was a clear lack of understanding concerning this important safeguard as in the relevant section of the custody registers on the notification of one's detention to a third party, mention was made of the timing and modalities of the information provided to the prosecutor in accordance with Section 161 of the CCP.

**The CPT recommends that the authorities of North Macedonia ensure that all persons deprived of their liberty by the police, for whatever reason, are given the right to notify a close relative or third party of their choice about their situation as from the very outset of their deprivation of liberty (that is, from the moment they are obliged to remain with the police). Further, detained persons should be provided with feedback on whether a close relative or other person has been notified of the fact of their detention and police officers must always record in writing whether or not notification of custody has been performed in each individual case, with the indication of the exact time of notification and the identity of the person who has been contacted (see also paragraph 31). Finally, custody officers should be reminded of their obligation to duly execute this safeguard in light of the relevant legal provisions and the SOP regulations.**

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<sup>29</sup> The designated custody officer was the deputy head of shift within each police station equipped for the detention of persons deprived of their liberty.

c. access to a lawyer

25. The right of a detained person to access a legal counsel during police custody is regulated by Section 161, paragraph 1, of the CCP.<sup>30</sup> The SOPs specifically provide for the provision of access to a lawyer of one's choice or *ex officio* since the outset of deprivation of liberty and the detention report provides for/contains a specific section to be filled in by the custody officer. During the CPT's 2019 visit, a number of persons interviewed by the delegation who had recently been in police custody confirmed that they had been in a position to contact a lawyer from the beginning of police custody.

That said, many allegations were once again received from detained persons that they had been denied the right of access to a lawyer during the initial 24 hours of police custody and that they had first met a lawyer when they appeared before a judge or that they had not seen one at all.<sup>31</sup> Further, a number of persons claimed that they had not been given the opportunity to consult with their lawyer, either in private or at all, prior to the court hearing. Moreover, in several of the police stations visited, the custody registers consulted by the delegation revealed that, in large number of cases, detained persons had declined the right to avail themselves of the right of access to a lawyer during their stay in police custody.

26. As regards free legal aid, a new law had come into force in the course of 2019 providing for clearer criteria of eligibility and funding.<sup>32</sup> In practice, pursuant to the provisions of Section 161, paragraph 1, of the CCP, lists of *ex officio* lawyers provided by the relevant local bar associations were available at the police stations visited. The delegation noted that custody officers did not interfere in the selection of a particular legal counsel by the detained person as provided by the SOPs. That said, several detained persons complained about the passive role of the lawyers in representing their case and/or that the *ex officio* lawyers had requested to be provided with an informal payment of money to represent the individual in court.

27. The CPT wishes to recall that any attempt to prevent persons in detention from exercising their right to access a lawyer is illegal. The right of access to a lawyer must include the right for any detained person to talk to his/her lawyer in private as from the very outset of his/her deprivation of liberty. The person concerned should, in principle, be entitled to have a lawyer present during any interview, whether this be before or after he/she is charged and the waiver of the right to legal assistance should be systematically signed by the detained person if he/she does not wish to exercise his/her right to access to a lawyer. Further, all *ex officio* lawyers operating at the national level should be reminded through the relevant bar associations of the importance of representing persons in police custody and performing their functions in a diligent and timely manner and, furthermore, that it is unacceptable to offer their services on condition of receiving additional informal fees.

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<sup>30</sup> I.e. "Any person deprived of their liberty may speak to an attorney in private at any time, day or night. If the arrested person does not have an attorney of his or her own or cannot establish contact, he or she may ask to see the list of available attorneys on call. The attorney may come and visit the arrested person at the police station at any time. During the period between 20.00 hours at night and 08.00 hours in the morning, the person shall have the right to choose an attorney from the list of attorneys on call, composed by the Bar Chamber of the Republic of Macedonia. Any expenses for the attorney on call as a defence counsel during the detention at night shall be covered by the State Budget of the Republic of Macedonia."

<sup>31</sup> The relevant section of the custody registers bore testament to the fact that they had decided not to request a lawyer.

<sup>32</sup> According to the new legislation, foreign nationals are also eligible for free legal aid and the eligibility criteria are now clearly set and linked to the national minimum wage. Further, a grant scheme operated by the Ministry of Justice should ensure the financial aspects of the provision of free legal aid.

**The CPT calls upon the authorities of North Macedonia to take steps – in co-operation with the Bar Association – to ensure that the right of access to a lawyer applies effectively as from the very outset of the deprivation of liberty by the police in accordance with the above-mentioned remarks. In particular, steps should be taken to ensure that the waiver of the right of access to a lawyer is given voluntarily, knowingly and intelligently.<sup>33</sup> As such, any waiver should be preceded by the provision of clear information on the existence of the right, including the possibility to have a lawyer free of charge, if the person cannot afford one, and on the consequences of such a waiver, namely whether and how that waiver may be withdrawn, and information on whether any statements made in the absence of a lawyer will be used at later stages of the proceedings. Furthermore, waivers, and the provision of the requisite information thereto, should be duly recorded, preferably by both audio and video means, and signed by the person concerned. Police officers should refrain from making any comments or from providing any advice on whether the person should waive a lawyer.**

d. access to a doctor

28. The right of a detained person to access to a doctor is regulated by Section 160, paragraph 6, of the CCP.<sup>34</sup> The SOPs clearly provide for the responsibility of the custody officer to assess the physical and mental state of a detained person upon his/her admission to the police station. If the person displays visible injuries, the custody officer orders a medical examination and injuries are photographed and attached to the personal file of the detained person. Further, medical assistance is also provided upon the request of the detained person<sup>35</sup> and the approval of the custody officer and the medical examination must respect the principle of confidentiality. Finally, the SOPs also provide that medical assistance should be provided in order to ensure the continuity of prescribed therapy to detained persons (e.g. methadone and insulin).

The above-mentioned provisions were in general complied with at the establishments visited at the time of the 2019 visit: persons in need of medical care were receiving assistance such as calling of an ambulance to the police premises or through their hospitalisation. That said, from interviews with detained persons, as well as the examination of the custody registers, it also appeared that custody officers continued to exercise a certain discretion over the provision of medical assistance, for example, declining the requests of detained persons for medical assistance even in the presence of visible injuries and complaints of physical ill-treatment. Further, the CPT's delegation did not find any instance of photographs being taken by custody officers in respect of injuries observed on detained persons which might have originated from episodes of police ill-treatment. Finally, the delegation also received some allegations from detained persons who alleged to have been denied by police staff the possibility to continue prescribed treatment (e.g. insulin or opioid agonist therapy).

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<sup>33</sup> See, in this regard, the judgment of the European Court of Human Rights in the case of *Pishchalnikov v. Russia*, no. 7025/04, §77, 24 September 2009.

<sup>34</sup> I.e. "If necessary, a medical examination of the arrested person shall also be ordered. A medical examination shall always be ordered if the person complains of an injury, pain or illness. The custody officer shall be obliged to ask the person if he/she is currently receiving any medical treatment or medications."

<sup>35</sup> In the form of an ambulance or hospitalisation.

**The CPT recommends that persons deprived of their liberty by the police be expressly guaranteed the right to have access to a doctor from the very outset of their deprivation of liberty in light with the relevant regulations set out in the SOPs. In particular, a request by a detained person to see a doctor should always be granted; it is not for police officers, nor for any other authority, to filter such requests. Further, the relevant provisions of the SOPs on the necessity for custody officers to take photographs of injuries observed on detained persons and to ensure the continuation of prescribed therapy during police custody should be strictly followed.**

29. As regards the examinations carried out by doctors working in emergency departments, it is clear that the doctors' only concern was to treat the persons brought to them and not to describe in detail the injuries or to draw conclusions. The examinations were carried out in the presence of the police officers. Consequently, the certificates examined by the CPT's delegation described the injuries in a scant and cursory manner (with no shape, colour or precise position of injuries included) and made no reference to their origin.

However, for as long as the police continue to take detained persons with injuries to hospital emergency units, doctors should have a clear obligation to record all injuries on persons brought to hospital by police officers in accordance with the approach set out below in this paragraph. To this end, the CPT must stress that all medical examinations should be based on the principle of confidentiality and be conducted out of the hearing and – unless the doctor concerned expressly requests otherwise in a given case – out of the sight of police staff. The presence of police staff during medical examinations of detained persons could discourage a detained person who has been ill-treated from saying so and, more generally, is detrimental to the establishment of a proper doctor-patient relationship; alternative solutions can and should be found to reconcile legitimate security requirements with the principle of medical confidentiality. An example is the establishment of a secure consultation room within an emergency clinic or hospital.

**The CPT recommends that the authorities of North Macedonia put in place an arrangement for doctors to visit police premises. These doctors should, in addition to their general practitioner qualifications, be provided with training on how to identify, describe and record injuries.**

**Pending the establishment of such a system, doctors working in hospital emergency units, notably in major urban centres, should, whenever they are able to do so, be required to describe any injuries in full and, indicate at the end of their traumatic injury reports, whenever they are able to do so, the consistency between one or more objective medical findings and the statements of the person concerned. If necessary, a secure room in the hospital should be set aside where such examinations may be carried out in a safe, secure and confidential manner.<sup>36</sup>**

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<sup>36</sup> See, in this respect, the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment known as the “Istanbul Protocol”.

e. information on rights

30. Section 69 of the CCP provides for the right to timely, clear and understandable information on the rights of a detained person.<sup>37</sup> The findings of the CPT's delegation in the course of the 2019 periodic visit indicate that in general, persons deprived of their liberty by the police were being informed of their rights and were duly signing the relevant form soon after their deprivation of liberty. Further, information sheets in several languages were present at several police stations in several languages, as well as laminated flyers.

f. custody records

31. As mentioned in paragraph 23 the new SOPs also include specific instructions on the standard forms to be filled in, in respect of detained persons, their recording, archiving and compilation.<sup>38</sup> The delegation noted that standard forms had been introduced<sup>39</sup> and were in use at all police establishments visited and that the relevant custody officers were in general well acquainted with their content and paid due care in respect of the compilation and care of the relevant documentation. That said, some imperfections were noted, in particular in respect of the timing on the provision of relevant safeguards, blank sections and the inaccurate compilation of sections of detention reports (see also paragraph 24).

**The CPT recommends that the authorities of North Macedonia ensure that custody records are duly filled in, in respect of all relevant information on the implementation of fundamental safeguards against ill-treatment. Senior officers should exercise more stringent oversight on the manner in which custody records are kept and filled in.**

## 5. Conditions of detention

32. The 2012 Rulebook on General Norms and Standards to be met by detention facilities in police stations enumerates the minimum requirement of police detention cells in all police establishments. Further, the strategic document "Police Development Strategy" provides for a specific strategic objective consisting of refurbishment and renovation of police detention facilities. At the outset of the visit, the CPT's delegation had been informed of the investments undertaken by the Ministry of the Interior to refurbish and maintain police detention facilities in an adequate state of repair and hygiene,<sup>40</sup> as well as the ongoing efforts to ensure that the provisions of the Rulebook were respected.

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<sup>37</sup> Reference is also made to Section 26 of the Rulebook on the manner of performing police affairs.

<sup>38</sup> See Section 5.2.7. of the SOPs.

<sup>39</sup> Such as records on the apprehension, arrest and deprivation of liberty, decisions on detention of a person, detention reports, records on information on rights and documents for handing over a detained person.

<sup>40</sup> The delegation was informed of the existence of a specific item in the Ministerial annual budget for this purpose.

In several police stations visited, the delegation observed a general improvement in terms of their state of repair and hygiene as compared with the 2014 periodic visit. In particular, the four new single-occupancy cells (measuring 6m<sup>2</sup> each) at *Gazi Baba* Police Station in Skopje, the three cells at Tetovo Police Station,<sup>41</sup> the three single-occupancy cells at Gostivar Police Station<sup>42</sup> and the two cells at Gevgelija Police Station all provided material conditions of a good standard. The cells were clean and in a good state of repair and were each equipped with a bed with clean bedding, a call bell and floor heating. Artificial lighting was adequate and the cells had some access to natural light. Sanitary facilities located in the detention area, usually consisting of toilets and showers, were in a good state of hygiene.

That said, certain deficiencies were observed at Ohrid Police Station, where the two single-occupancy detention cells located in the courtyard<sup>43</sup> of the establishment continued to have no heating and lacked access to natural light, and artificial lighting was malfunctioning in one of the cells. Further, in two detention cells of Negotino,<sup>44</sup> and in three double-occupancy cells of Bitola and Strumica Police Stations respectively<sup>45</sup> the heating system was not operating.<sup>46</sup> Further, artificial lighting was dim in the detention cells of Strumica Police Station, and no personal hygiene products were provided to detained persons at Bitola Police Station. **The CPT recommends that the police detention cells of Ohrid Police Station be provided with heating and access to natural light. Further, the artificial lighting should be repaired in one of the two cells of Ohrid Police Station and at the three cells of Bitola Police Station. Finally, the cells of Negotino and Strumica Police Stations should also be adequately heated and personal hygiene products distributed as needed to detained persons at Bitola Police Station.**

33. Rule 5.4 of the SOPs specifically state that persons detained for more than six hours be provided with food, either paid for by the detained persons, by their families or exceptionally by the police. The custody records examined by the CPT's delegation during the visit confirmed that this provision remained unimplemented at the time of the 2019 periodic visit. With the exception of a few persons who received food from their families, the vast majority of persons interviewed by the CPT's delegation alleged that they had not been provided with food or drinking water throughout the entire period of 24 hours of police custody and that their requests had been declined by police staff.

By letter dated 25 March 2019, the Ministry of the Interior informed the Committee that steps had been taken in order to ensure that the SOP provisions on the supply of food and water to detained persons were fully complied with, primarily with the funds of the detained persons and their families or alternatively at the expense of the Ministry of the Interior. The letter also stressed that the provision of food to detained persons was adequately recorded in the relevant section of the custody registers in use.

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<sup>41</sup> Measuring respectively 12, 13 and 14m<sup>2</sup> for double occupancy.

<sup>42</sup> Measuring 6m<sup>2</sup> each.

<sup>43</sup> Measuring respectively 6m<sup>2</sup> each.

<sup>44</sup> One double-occupancy cell measuring 9m<sup>2</sup> and one single-occupancy measuring approximately 6m<sup>2</sup>.

<sup>45</sup> The cells measured 11m<sup>2</sup> at Strumica and 12m<sup>2</sup> at Bitola Police Stations.

<sup>46</sup> A temperature of 12° Celsius was measured in the cells of Negotino Police Stations and of 14° at Strumica Police Station at the time of the delegation's visits during evening hours.

**The CPT recommends that all persons detained by the police in North Macedonia have ready access to drinking water and be given food at appropriate times, including at least one full meal (i.e. something more substantial than a sandwich) every day free of charge. Such a provision should not under any circumstances be delayed or denied due to the impossibility of detained persons or their families to purchase food and beverages. The Ministry of the Interior should provide for a dedicated sum of money in its annual budget for this purpose and the SOPs should be amended in order to provide for the free of charge provision of food and drinking water to detained persons in police custody.**

## **B. Prison establishments for adults**

### **1. Preliminary remarks**

#### a. reform of the penitentiary system

34. The CPT's report on the December 2016 visit clearly demonstrated a persistent failure by the national authorities to address certain fundamental shortcomings in the treatment and conditions of detention of persons held in prison, notably at Idrizovo Prison.

The shortcomings concerned in particular the lack of a professional approach in managing complex institutions, poor management and performance of staff, low staffing levels, poor quality health care provided to prisoners, the lack of an appropriate regime for inmates, violence and squalid material conditions. In addition, the CPT highlighted the endemic corruption present in the prison system.<sup>47</sup>

35. These issues were the focus of high-level talks on 13-14 October 2017 in which the Prime Minister, Deputy Prime Minister, the Minister of the Interior and the Minister of Justice participated and during which an undertaking was made to address the concerns raised by the CPT. To this end the CPT has received a number of reports from the authorities of North Macedonia since March 2018 relating to various prison-related reforms.

The most relevant developments may be summarised as follows:

- the adoption in May 2019 of a new Law on Execution of (Criminal) Sanctions (LES) which introduced changes to the system of disciplinary proceedings and judicial supervision of the execution of sentences, as well as to the competences required of prison managers. However, the fundamental requirement that prison directors be accountable to the Head of the Directorate of the Execution of Sanctions was not accepted (see paragraph 53);
- the passing of an Amnesty Law in 2018 resulting in the release of 800 inmates and a 30 percent reduction in the sentences of 1,560 inmates;
- the progressive rolling out of the probation service following the adoption of the 2015 Law on Probation;<sup>48</sup>
- the upgrading of the prison estate, including the entry into service of the open and semi-open regime units at Idrizovo Prison (see paragraph 55), and refurbishment of Bitola Prison and the remand sections of Prilep and Tetovo Prisons;
- the transfer of responsibility of prison health care from the Ministry of Justice to the Ministry of Health as of April 2018 (see paragraph 77).

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<sup>47</sup> See in particular paragraph 5 of the report on the CPT's ad hoc visit to North Macedonia (CPT/Inf (2017) 30).

<sup>48</sup> A total of 137 sentenced persons had been placed under the supervision of the 22 probation officers nationwide in the course of 2019.



36. In addition, the authorities of North Macedonia have adopted a number of strategic documents in the field of prevention of physical ill-treatment and inter-prisoner violence,<sup>49</sup> integrity, training and professionalisation of staff<sup>50</sup> and anti-corruption measures<sup>51</sup> as listed in the “2015-2019 National Strategy for the Development of the Penitentiary System”.<sup>52</sup>

37. The prison population in the country at the time of the CPT’s 2019 visit stood at 2,169 for an overall capacity of 2,780 places, which represented an occupancy rate of 78 percent.<sup>53</sup> This is a significant decrease since the previous periodic visit in 2014<sup>54</sup> when the rate of imprisonment stood at 151 per 100,000 as compared to 103 per 100,000 at the time of the 2019 visit. The reduction in prison numbers is mainly due to the above-mentioned 2018 Law on Amnesty. The absolute number of persons placed in pre-trial detention has also gone down over time with the proportion of the overall prison population on remand remaining stable at around 13 percent. The findings of the 2019 periodic visit of the CPT to North Macedonia confirmed that in principle prison establishments operated well below their official capacity. That said, several instances of prison overcrowding (i.e. less than 4m<sup>2</sup> of living space per inmate in multiple-occupancy cells) were observed within certain sections of the prison establishments visited such as the closed-regime detention units of Idrizovo and Štip Prisons, as well as in numerous cells of the remand section of Skopje Prison (see paragraphs 56, 63 and 65).

The CPT takes note of the efforts invested by the authorities of North Macedonia in curbing the phenomenon of prison overcrowding. While the establishment of a probation system represents a long-term project to provide a more effective transition between prison and the community and to reduce numbers in prison, the Amnesty Law has provided a short-term respite on prison numbers but does not alter the underlying trends. The CPT considers that the problem of prison overcrowding cannot be addressed in a comprehensive and lasting way through the use of exceptional measures such as an amnesty act. The Committee would reiterate that a strategy for the sustainable reduction of the prison population should be guided by relevant Recommendations of the Committee of Ministers of the Council of Europe as was recently set out in the White Paper on Prison Overcrowding.<sup>55</sup> In particular, such a strategy should include a variety of steps to ensure that imprisonment is, in practice, the measure of last resort at all stages of the criminal justice system, from pre-trial to the execution of all sentences, whatever their length. Further, the adoption of measures to facilitate the reintegration into society of persons who have been deprived of their liberty – both prior to and after their release – could also reduce the rate of re-offending and the “revolving-door” phenomenon.

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<sup>49</sup> See, for instance, the March 2017 “Strategy on Zero Tolerance towards Ill-treatment” adopted by the DES.

<sup>50</sup> Such as the adoption in 2018 of the “Code of Conduct for Official Persons in carrying out their duties in the Penitentiary and Educational Correctional Institutions”.

<sup>51</sup> See for example the March 2017 Plan for the Prevention of Corruption.

<sup>52</sup> This strategic document adopted by the Government in December 2014 identified twelve strategic goals to be fulfilled by 2019 in different fields ranging from conditions of detention to prison health care and the professionalisation of prison staff and senior management, as well as the establishment of a functioning probation system. Further, an action plan for the fulfilment of the above-mentioned goals was attached to the Strategy as an appendix with a concrete timeline for its implementation.

<sup>53</sup> The official statistics of the DES included 204 fugitive prisoners.

<sup>54</sup> I.e. 3,185 prisoners for a capacity of 2,468 places.

<sup>55</sup> See the: *White Paper on Prison Overcrowding* – CM(2016)121-add3, 23 August 2016, as well as Recommendations R(99)22 concerning prison overcrowding and population inflation, Rec(2003)22 on conditional release (parole), and CM/Rec(2017)3 on the European Rules on community sanctions and measures.

**The CPT recommends that the authorities of North Macedonia develop a holistic and proactive approach for the sustainable reduction of the prison population including through wide-ranging discussions involving all relevant parties such as parliamentarians, prosecutors, judges and representatives of monitoring bodies. Further, the elements of this strategy should be duly reflected in the 2020-2024 “National Strategy for the Development of the Penitentiary System”.**

b. prison establishments visited

38. In the course of the 2019 visit, the CPT’s delegation carried out follow-up visits to Idrizovo, Kumanovo, Ohrid and Skopje Prisons. Further, it also paid targeted visits to the remand section of Gevgelija Prison and the closed-regime section of Štip Prison, as well as to the Closed Ward for Sentenced Prisoners at Skopje Clinical Centre.

39. *Gevgelija Prison*, located close to the border with Greece, accommodated one prisoner on remand for an overall capacity of 12 places. The semi-open regime unit, which was accommodating 38 male prisoners for an overall capacity of 69 places, was not visited by the delegation.

*Idrizovo Prison* remains by far the largest establishment in the country holding some 55 percent of the entire prison population. At the time of the visit, it accommodated 1,192 sentenced prisoners (including 48 women) for an overall capacity of 1,372 places. This represents on paper a vastly improved state of affairs from the 1,840 prisoners that the prison had been holding in December 2016 when the capacity had stood at 900. However, the new open and semi-open regime units<sup>56</sup> which had been inaugurated in November 2018 after a considerable delay were operating at less than 50 percent of their capacity (see paragraph 53 below). Further, the closed regime building which comprised the units known as “Škola”, “E” and “K” had been demolished and the inmates transferred to the main nine-wing accommodation building. Consequently, the occupancy levels in this building were extremely overcrowded, similar to those observed by the CPT during its previous visits.<sup>57</sup> The prison health-care unit known as “*ambulanta*”, which accommodated 128 prisoners suffering from chronic somatic and psychiatric illnesses, as well as physical impairment, also remained overcrowded.

*Kumanovo Prison* was described in the report on the 2014 visit<sup>58</sup> and had not changed apart from the fact that there was now an asphalt road leading to the establishment. At the time of the 2019 visit, the prison was accommodating 105 prisoners (of whom 21 were on remand) for an overall capacity of 226 places. The longstanding challenge to provide a sustainable and permanent supply of water to the establishment had not yet been resolved.

*Ohrid Prison* had been designated, in 2015, as a male juvenile prison and at the time of the 2019 visit was accommodating eight juveniles serving a criminal sanction and twelve juveniles under an educational and correctional measure (see paragraph 104). In addition, it was holding 18 persons on remand for an official capacity of 18 places.

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<sup>56</sup> The units were accommodating 107 and 149 inmates respectively at the time of the visit.

<sup>57</sup> I.e. the closed-regime main building was accommodating a total of 557 sentenced inmates at the time of the visit. They were 673 at the time of the 2016 ad hoc visit.

<sup>58</sup> See, in particular, paragraphs 55 to 58 of the report on the 2014 periodic visit.

*Skopje Prison*, the main pre-trial establishment in the country, was accommodating a total of 246 prisoners<sup>59</sup> (of whom twelve were women) for an official capacity of 310 places. The delegation did not visit the closed or semi-open regime units for sentenced prisoners, which was accommodating 111 male sentenced prisoners for a capacity of 128 places.

*Štip Prison* accommodated 217 sentenced male prisoners for an overall capacity of 210 places at the time of the 2019 visit. The closed regime section, which consisted of three wings of eight cells each and a disciplinary unit of eight cells, was accommodating 67 prisoners for an overall capacity of 68 places.<sup>60</sup>

The seven rooms of the *Closed Ward for Sentenced Prisoners at Skopje Clinical Centre (Arestansko Odjeljenje)* was accommodating three patients from Idrizovo Prison at the time of the CPT's visit, for an overall capacity of 17 beds.

## 2. Ill-treatment

40. In all the prisons visited, the majority of prisoners interviewed by the delegation stated that they had been treated correctly by prison officers. Indeed, at Skopje and Kumanovo Prisons and at the remand section of Ohrid Prison, the CPT's delegation did not receive any allegations of physical ill-treatment by prison staff and inmates generally spoke positively of the way in which they were treated by prison staff. At the closed section of Štip Prison, some inmates complained about verbal abuse and threats of violence from certain members of the custodial staff following incidents of passive resistance or recalcitrant behaviour by prisoners.

41. At Idrizovo Prison, a number of allegations of physical ill-treatment by prison officers (consisting of slaps, punches, kicks and blows with rubber batons) were received, notably in relation to inmates who had addressed repeated requests to see a doctor or following episodes of inter-prisoner violence or recalcitrant behaviour. As has been the case in the past, the alleged ill-treatment occurred in the offices of custodial staff located on the ground and third floors or in the exercise yards adjacent to the main building.

Further, the practice of alleged "welcome beatings" of inmates sentenced for a sex-related offence was reported by several inmates. For example, one prisoner told the delegation that upon his admission to Idrizovo Prison on 7 November 2019 he had been brought into an office for staff where he claimed two prison officers had slapped and punched him in the head. The following day he was seen by the prison doctor who included the following entry in his medical file: "*the inmate complains about pain in his left ear*". However, no further information was noted about the origin of the pain and no specialist examination was ordered; when met by the delegation more than three weeks later the inmate still complained about the pain in his ear.

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<sup>59</sup> This represents 80 percent of the overall pre-trial population at the national level which stood at 284 detained persons at the time of the 2019 visit.

<sup>60</sup> There were 115 at the time of the 2016 ad hoc visit.

42. A number of further allegations of physical ill-treatment made by prisoners concerned the time when they were being transferred to court or to hospital. For example, several inmates, sentenced for or suspected of terrorism-related crimes<sup>61</sup> whom the delegation met at Idrizovo and Skopje Prisons, alleged that while being escorted to court by members of the Special Support Unit of the Ministry of the Interior (i.e. Посебна Единица за Поддршка) they had been punched and subjected to blows with the barrel of a machine gun to various parts of their bodies. Some of them also stated that they had complained about the alleged ill-treatment to the judge presiding over the court hearing but that the allegations were dismissed as unfounded.

An inmate on the Closed Ward of Skopje Clinical Centre alleged that he was struck several times with a truncheon by a prison officer while being transferred to the psychiatric ward of the Skopje Clinical Centre on 9 December 2019 following an attempted suicide in his cell. When examined by the delegation's forensic doctor the next day he displayed injuries which were considered as compatible with the alleged ill-treatment: on the right shoulder, one hematoma measuring 3 x 1 cm and another linear hematoma measuring 4 x 1 cm, and one hematoma on the left groin (*inguinum*) measuring 3 x 1 cm.

43. By letter dated 2 April 2020, the authorities of North Macedonia informed the Committee that following a review by the DES of the complaints filed by inmates at Idrizovo Prison in the course of 2019 and of the reports on the use of force by prison staff drawn up in compliance with the recently adopted Standard Operating Procedures (SOPs),<sup>62</sup> there were no indications of any allegations of physical ill-treatment inflicted by prison staff on inmates. Further, information was also provided in respect of one case of alleged physical ill-treatment of inmates by staff at Idrizovo Prison in 2019 which the DES had referred back to the management of this same prison to investigate. The management concluded that there was a lack of evidence to support pursuing disciplinary proceedings.

44. The Committee takes note of the efforts invested by the authorities of North Macedonia in combating ill-treatment in prisons. These consisted primarily in the adoption of a Code of Conduct for Penitentiary Staff in 2018, a Strategy on Zero Tolerance towards Ill-Treatment in 2017<sup>63</sup> and several targeted ad hoc training activities of custodial staff on manual skills, use of restraint and the management of crisis situations. Further, it is important to note that the recently established team of three prosecutors of the Special Prosecutor Office on Anti-Corruption and Organised Crime (see paragraph 13) are equally competent to investigate allegations of ill-treatment from prison staff and that a two-tier complaints system has been established in compliance with the relevant provisions of the 2019 LES.

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<sup>61</sup> Some of them had recently been deported to North Macedonia from Syria and belonged to the category of so-called "foreign fighters".

<sup>62</sup> Adopted by the DES in March 2017 as a mandatory instruction.

<sup>63</sup> Including Standard Operating Procedures on the recording of use of means of restraint and mandatory reporting to the prison management and the competent prosecutorial authorities in the case of injuries.

That said, the Committee regrets to note that the above-mentioned multi-faceted efforts have so far not yielded the expected results in the eradication of the phenomenon of physical ill-treatment and inappropriate behaviour by staff towards inmates. The CPT also wishes to emphasise that prison directors are responsible for delivering a clear message to custodial staff that physical ill-treatment, excessive use of force, unjustified resort to means of restraint and security measures for punitive reasons and verbal abuse of inmates, as well as other forms of disrespectful or provocative behaviour vis-à-vis prisoners, are wholly unacceptable and will be dealt with severely. The establishment's management should demonstrate increased vigilance in this area, by ensuring the regular presence of prison managers in the detention areas, their direct contact with prisoners, the investigation of complaints made by prisoners, and improved prison staff training.

**The CPT reiterates its recommendation to the authorities of North Macedonia that it hold to account all senior staff in the prison, including the Director and Deputy Director, to ensure that they fulfil their basic responsibility of guaranteeing that prison staff respect the right of prisoners to physical and mental integrity.**

**The CPT recalls that any form of ill treatment is totally unacceptable and must be subject to appropriate sanctions. This demands that all senior and middle managers pay special attention to the actions of staff under their responsibility, notably prison officers, and take immediate steps to address any indications that staff are abusing prisoners. Failure on the part of supervisory staff to fulfil this role is, in itself, a serious dereliction of duty. Prison officers too must be made fully aware that no more force than is strictly necessary should be used to control violent and/or recalcitrant prisoners and that once prisoners have been brought under control, there can be no justification for them being struck. In this context, the authorities should ensure that all prison officers are trained in recognised control and restraint techniques. These remarks equally apply to the members of the Special Escort Unit of the Ministry of the Interior in charge of the transfer of prisoners at Skopje Prison.**

**The Committee also recommends that whenever detained persons brought before judicial authorities allege ill-treatment, those allegations should be recorded in writing, a forensic medical examination should be immediately ordered, and the necessary steps taken to ensure that the allegations are properly investigated.**

45. Inter-prisoner violence and intimidation remains a serious problem, in particular at Idrizovo Prison, where, due to the chronic shortage of staff, prison officers were not in a position to effectively supervise various parts of the establishment (notably several wings of the main accommodation building). At Skopje Prison, members of the custodial staff were also not sufficiently alert to signs of inter-prisoner violence, in particular at the time of a detained person's admission to prison.

At Idrizovo Prison, the dedicated register of injuries recorded four incidents of stab wounds to inmates in November 2019 inflicted during episodes of inter-prisoner violence, none of which had been reported to the relevant prosecutor. Several prisoners interviewed by the delegation stated that they had been subjected to violence and intimidation by fellow prisoners due to having accumulated debts related in particular to the sale of drugs and trafficking in opioid agonist therapy medication. The level of psychological distress of certain inmates was so serious that it was not uncommon for them to resort to acts of self-harm and even suicide attempts. Such a state of affairs was particularly visible on Wings Nos. 2 and 5, as well as in the so-called “*ambulanta*”. For example, one inmate, met by the delegation at the Closed Ward of Skopje Clinical Centre, alleged that he had been targeted by a group of prisoners for accumulated debts from the purchase of drugs,<sup>64</sup> first in Wing No. 2 and thereafter in the “*ambulanta*” of Idrizovo Prison. Consequently, he attempted to kill himself by drinking corrosive acid which prompted his transfer to the Skopje Clinical Centre for treatment.

Another remand prisoner met by the delegation at Skopje Prison alleged that soon after his admission to a cell on Wing B, he had been beaten by a group of eight cellmates because he belonged to a different ethnicity than them. The alleged violence and intimidation consisted of kicks, punches and slaps, as well as threats to cut off his ears and only stopped after four days when a prison officer realised what was happening. When examined by the prison doctor the following entry was included in his medical file: “*Haemathoma palpebrae superior et suffusion sclerae lat.dex*”.<sup>65</sup>

Further, some inmates met by the delegation at Štip Prison, who had been sentenced for taking part in the storming of Parliament in April 2017, alleged that they had been subjected to beatings and intimidation during their 30 days of quarantine in the admission section of Idrizovo Prison in April 2019 by a group of inmates belonging to a different ethnic group.

46. At Skopje Prison, a remand prisoner met by the delegation alleged that four days after his admission to a cell on Wing B his cellmates started beating him (i.e. punches and kicks) in the semi-partitioned sanitary annex of the cell in order to extort cigarettes from him. The alleged violence and intimidation lasted for three days until the person in question was transferred to another cell. He refused to complain about the incident.

47. The phenomenon of inter-prisoner violence and intimidation in the prison system of North Macedonia has been the object of various recommendations by the CPT in its previous reports. For this purpose, the national authorities identified a specific goal in the “2015-2019 National Strategy for the Development of the Penitentiary System” and the relevant action plan which consisted in the adoption of a range of measures. In concrete terms, these measures should have resulted in the increase of the number of prison officers, targeted training activities on managing complex situations and on the use of force to control inmates, the progressive introduction of the dynamic security concept among staff, the extension of CCTV coverage in detention units and the development of specific individual treatment plans targeting the behaviour of violent and aggressive prisoners. In practice, with the exception of the amendments adopted on 29 November 2019, most of the above-mentioned measures have not been effectively addressed (see paragraph 73).

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<sup>64</sup> The inmate in question showed receipts of the transfer of money his family had allegedly made to a group of inmates in Idrizovo Prison.

<sup>65</sup> “A haematoma of the right upper eyelid and suffusion of the right eye's lateral sclera”.

The CPT calls upon the authorities of North Macedonia to draw up and diligently implement a strategy to combat inter-prisoner violence and intimidation, notably at Idrizovo and Skopje Prisons; part of this strategy will have to include investing far more resources in recruiting additional staff and promoting their professionalism in terms of targeted training activities, the extension of CCTV coverage within common spaces and the offer of a wide range of purposeful activities at Idrizovo and Skopje Prisons. Further, a proper cell share risk assessment should be undertaken upon the admission of every prisoner to identify incompatible categories of prisoners.

Further, the CPT recommends that additional emphasis be placed upon providing prison officers and specialist staff with the skills and knowledge to ensure that the measures provided for can be effectively implemented. This should include being able to identify perpetrators of violent acts against other prisoners and to recognise when vulnerable prisoners might be seeking help through actions that are contrary to the internal prison rules.

In addition, the Committee recommends that, whenever severe bodily injuries<sup>66</sup> are recorded by a doctor which are consistent with allegations of inter-prisoner violence, the record be immediately brought to the attention of the relevant prosecutor and a preliminary investigation be initiated.

### 3. Staff

48. The CPT has repeatedly stressed the importance and critical role that prison staff and management should play in ensuring a safe and secure environment in prison as well as in providing the necessary conditions for the rehabilitation of prisoners and their re-integration into society. In the CPT's view, in order to achieve this goal, prison staff must be in adequate numbers and receive the necessary support to perform their tasks, with stable and secure working conditions, adequate and continuous training activities and a system of accountability for misconduct and corrupt activities. Further, the Committee has long advocated the establishment of a permanent corps of senior prisoner managers with a defined career path, job security and a clearly established hierarchy.

In order to meet these longstanding recommendations, the new LES contains specific provisions on the minimum requirements and procedures for the appointment of senior prison managers (see paragraph 35) as well as the status, recruitment and training needs of custodial staff and educators. Further, on 29 November 2019, shortly before the CPT's visit, amendments to the LES were adopted, strengthening, *inter alia*, the competencies and responsibilities of the Director of the DES (see paragraph 35).

49. At the time of the CPT's 2019 visit, the number of prison officers remained low despite some recent recruitments and transfers from the Ministry of Defence.<sup>67</sup> Overall, the total number of custodial staff for the entire prison system amounted to 667 (previously 578 in 2014) out of 695 budgeted posts and in particular:

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<sup>66</sup> See Section 131 of the Criminal Code.

<sup>67</sup> A total of 30 new recruits began working in 2018 at the time of the inauguration of the new semi-open and open-regime detention units at Idrizovo Prison. All newly recruited staff had received a three-week induction course at the Prison Training Centre of Idrizovo Prison.

- At Idrizovo Prison, 208 prison officers were responsible for the supervision of 1,295 inmates and generally working on 12-hour shifts. The number of prison officers on duty at any given time on each of the units remained woefully low (i.e. in the main closed regime building there were four prison officers on duty during the day for 557 prisoners and moreover the officers were not present on any of the nine wings except during specific moments of the day such as during the distribution of food or unlocking for exercise).
- At Skopje Prison, 101 prison officers were responsible for the supervision of a total of 357 prisoners, with only 15 to 17 officers on duty during any one shift.
- At Kumanovo Prison, all 70 budgeted posts for custodial officers were filled which was sufficient for 105 prisoners but not if the number of prisoners were to increase to the official capacity of 226.
- At Štip Prison, all 97 budgeted posts of prison officers were filled with three officers on duty during the day to supervise 67 inmates in the closed regime unit.
- At Ohrid Prison, the staffing complement of 25 prison officers meant that during the week-day shifts, six or seven officers<sup>68</sup> were responsible for the supervision of 18 remand prisoners and 20 juveniles (see paragraph 115).

**The CPT recommends that prison officer levels at Idrizovo and Skopje Prisons be reviewed to ensure that staff are in a position to maintain effective control in the establishments, to guarantee a secure environment for themselves and prisoners alike and to provide a regime of activities for prisoners.**

**Further, the CPT would like to be informed of the criteria used to determine the prison officer staffing levels for each establishment, on the understanding that greater numbers of officers are required for closed regime units than for semi-open or open units.**

50. As regards educators<sup>69</sup> (see also paragraphs 70-73), their numbers remained insufficient at most of the prisons visited, with the exception of Kumanovo Prison where there were five educators for 84 sentenced prisoners. At Idrizovo Prison, there were 29 educators (i.e. one educator per 45 prisoners) and at Štip Prison, four educators (i.e. one educator per 54 prisoners) which had a negative impact on the level of treatment activities provided to inmates, notably those under a closed regime (see also paragraph 70). Further, there was still an insufficient number of educators who could speak Albanian and at Idrizovo Prison there were still no Roma educators. Indeed, inmates of Roma ethnicity told the delegation that they preferred to communicate with their assigned Roma wing leader rather than addressing their nominated educator.

**The CPT calls upon the authorities of North Macedonia to increase the number of educators at Idrizovo Prison and to ensure that a significant proportion of the newly appointed educators are able to speak Albanian. Further, educators capable of addressing the specific concerns of the Roma inmate population should be recruited.**

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<sup>68</sup> Four prison officers were on duty on the first day of the CPT's delegation visit to the establishment which took place on a public holiday.

<sup>69</sup> In practice, educators and instructors are administrative civil servants in charge of the rehabilitation and resocialisation of sentenced prisoners pursuant to Section 49 of the LES. In practice they act as inmates' main interlocutors in respect of their daily needs and general requests (such as prison leave and benefits, arranging family visits, etc.) and they also draft notes on the periodic observation of the behaviour of prisoners to the multi-disciplinary team in order to review the classification of inmates.



51. The authorities have always reported extensively in their responses to the CPT's reports, as well as in periodic information, about a series of training activities for prison staff organised in different fields in accordance with an annual training plan.<sup>70</sup> That said, the provision of such training still had an ad hoc nature. In the context of the renovation project co-funded by the CEB, the Prison Staff Training Centre built at Idrizovo Prison had no permanent staff and was still not being used to provide accredited initial and ongoing training on a systematic basis.

**The CPT recommends that the authorities of North Macedonia take steps to establish a multi-year programme of initial and ongoing training activities for prison staff using the facilities of the Prison Staff Training Centre. Further, such a programme should be overseen by one or more permanent staff training managers based at the Prison Staff Training Centre.**

52. In response to the CPT's report on the 2016 visit, the authorities had informed the CPT of the conclusion of a memorandum between the DES and the State Commission for the Prevention of Corruption on the conduct of targeted training activities to prison staff. Further, in March 2017, the DES had adopted a Plan on the Prevention of Corruption consisting of a series of mitigation measures to curb the phenomenon of corruption in prison.<sup>71</sup> In addition, the "2018 Code of Conduct" contains a specific reference to the obligation for every prison staff member to "*oppose all forms of corruption within the prison service and inform superiors of any signs of corruption within the prison service*". Further, the CPT's delegation was informed that prison staff had recently been granted a salary increase of 30 percent, as well as additional benefits in terms of early retirement possibilities, in order to align them with the status of police officers.

That said, as mentioned in paragraph 8, the situation found in relation to the spread and persistence of corrupt activities, notably at Idrizovo Prison, remained unchanged. The delegation once again received numerous allegations from inmates accommodated in all wings of the main accommodation building that *everything* was available for purchase and that each item bore a specific price tag within the prison (i.e. accommodation in specially equipped cells, change of wings and classification/regime, access to the doctor, prison benefits, drugs, mobile phone and even refusal to accommodate new inmates in a specific cell, etc.). Alleged corrupt activities consisted of active and passive bribes and concerned the whole spectrum of prison staff (i.e. custody officers, educators and health-care staff). Such an endemic level of corruption brings in its wake discrimination, violence, insecurity and, ultimately, a loss of respect for authority. In particular, it appeared that none of the specific above-mentioned mitigation measures to tackle the level of corruption had been put in place in practice at Idrizovo Prison.

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<sup>70</sup> Such as training activities of treatment staff on the new cognitive and behavioural programme; planning prison sentences and effective conflict management; specific training activities for the implementation of the new treatment plans drafted in respect of special categories of prisoners such as lifers, female prisoners and sex offenders; training of trainers events on the new 2018 Code of Conduct on Prison Staff, dynamic security and induction training of security staff to be deployed to the new semi-open and open-regime detention units of Idrizovo Prison.

<sup>71</sup> These include among other things the strengthening of the financial auditing capacity of the DES, enhanced anti-corruption training programmes for prison staff and the effective co-ordination of the different stakeholders tasked with preventing, detecting, inspecting, prosecuting and sanctioning corruption.

**The CPT calls upon the authorities of North Macedonia to step up their efforts to combat the phenomenon of corruption and favouritism, notably at Idrizovo Prison, through prevention, education and the application of appropriate sanctions. In this context, prison staff should receive the clear message that obtaining or demanding advantages from prisoners is not acceptable; this message should not only be reiterated in an appropriate manner at suitable intervals but form part of the core training programme. Each prison should establish a defined programme to tackle corruption, which must be preceded by an analysis of the factors driving it.**

**Further, the screening of all persons entering and leaving a prison establishment should be improved with a dedicated team of officers responsible for such screening. The CPT also recommends that the Special Prosecutor's Office on Anti-Corruption and Organised Crime undertake a full investigation into the corrupt activities involving prison staff at Idrizovo Prison.**

53. As regards the development of a prison management system, an issue advocated by the CPT since 2006, the new LES has introduced important innovations. Namely, Sections 27 to 30 of the LES now provide that prison directors be appointed by the Government upon a proposal by the Director of the DES. Further, amendments to the LES adopted before the 2019 periodic visit recognise the prerogative of the Director of the DES to adopt regulatory acts such as rulebooks, decisions, orders, instructions in the field of execution of criminal sanctions ensuring, in theory, a hierarchical system within the prison administration. The Committee takes positive note of these new provisions setting out minimum requirements for the appointment of prison managers. That said, it still considers that the hierarchical relationship between prison directors and the Director of DES remains insufficiently defined.

**The CPT calls upon the national authorities to introduce a professional management career path within the prison system and to ensure that prison directors and senior managers are recruited and given security of employment subject to satisfactory performance and are provided with relevant management training to enable them to fulfil their tasks competently. In addition, the appointment and dismissal of prison managers should be governed by clearly defined rules, with all prison directors and prison managers under the full hierarchical supervision of the Director of the DES.**

54. Concerning the status of members of the prison custodial staff, those recruited before 2012 are now considered as fully-fledged civil servants in the light of the provision of the Law on Civil Servants and thus enjoy proper labour security and social care entitlements. That said, the CPT's delegation was informed that those who had been recruited after that date still received temporary contracts and did not enjoy the same social security entitlements as their longer-serving colleagues. In this respect, the CPT wishes to point to the importance that should be attached to the status of prison officers as set out in the revised European Prison Rules, in particular Rules 76 (a status that civil society can respect), 78 (appointment on a permanent basis with public-service status and with security of employment) and 79.2 (benefits and conditions of employment).

**The CPT recommends that the authorities of North Macedonia take effective steps in order to fully comply with the above-mentioned provisions of the European Prison Rules in terms of the status of prison staff.**

#### 4. Material conditions of detention

##### a. Idrizovo Prison

55. As mentioned in paragraph 35, the 46 million Euro three-stage construction and renovation project of the establishment co-financed by the CEB completed its first stage with the opening of the open and semi-open regime detention units located just outside the main perimeter of the prison in October 2018. Further, in the course of 2017, the buildings denominated as “Škola”, “E” and “K” units which had been object of criticism in the past by the CPT,<sup>72</sup> had been demolished and inmates (predominantly of Roma ethnicity) mainly relocated to other closed-regime wings within the prison.

The conditions of detention in the newly inaugurated open and semi-open regime detention units which were accommodating 107 and 149 prisoners, respectively, could be considered as satisfactory. Cells measuring 13m<sup>2</sup> for double occupancy in the open regime and 18m<sup>2</sup> for four persons in the semi-open regime were equipped with bunk-beds, a TV, table and chairs, personal lockers and shelving units and call bells. Every cell had a fully partitioned sanitary annex and enjoyed adequate access to natural light and sufficient artificial lighting and ventilation. Both detention units also possessed communal rooms and refectories, laundry facilities and dedicated courtyards, with basketball and football courts. That said, in the semi-open detention unit, the artificial lighting in some corridors, communal rooms and cells was already malfunctioning as was part of the in-floor heating system.

Conditions of detention in the female detention unit<sup>73</sup> had improved since previous visits in 2014 and 2016, due to the reduced occupancy levels.<sup>74</sup> The cells offered acceptable conditions of detention in terms of state of hygiene and repair, access to natural light and ventilation; also the old mattresses had recently been replaced.

56. The main three-storey closed-regime building which was accommodating a total of 573 prisoners at the time of the visit was more problematic. Conditions of detention could be considered acceptable only in a few wings such as Wing No.9 which held 21 life sentenced prisoners and Wing No. 1A which held 13 prisoners sentenced for terrorist-related offences, as well as in certain cells where individual prisoners had allegedly paid staff for a “luxury cell”. Inmates were allowed to equip their cells with all sort of appliances, furniture and cooking devices and the cells were generally in a good state of repair and had acceptable hygienic conditions.

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<sup>72</sup> In the light of the poor material conditions, state of hygiene and serious occupancy levels observed during the 2010, 2014 and 2016 visits.

<sup>73</sup> For an overall capacity of 70 places and consisting of one open regime cell, four semi-open regime cells and 14 closed-regime cells as well as one solitary confinement cell.

<sup>74</sup> For example, cells in the closed-regime unit measuring 25m<sup>2</sup> were accommodating five female prisoners.

For the rest of the prison population, conditions of detention remained poor in terms of hygiene, state of repair, occupancy levels, an intermittent water supply, vermin infestation and dilapidated sanitary facilities. In particular, in the so-called “*ambulanta*” and Wings Nos. 2, 5 and 8, hardly any progress had been made to improve the situation since the 2016 visit and the conditions remained squalid and decrepit (i.e. dirty and crumbling walls, dilapidated furniture, filthy mattresses infested with vermin, lack of artificial lighting, improvised and unsafe electric wiring and a heating system that operated for only a few hours per day). In particular, the common sanitary facilities in the above-mentioned wings were in an appalling state of repair and hygiene (with sewage leaking from the ceiling into the sanitary facility of Wing No. 2), most of the showers were not functioning (e.g. only one was in service in both Wings Nos. 2 and 5, which accommodated 108 and 126 inmates respectively), and there was hardly any access to hot water.<sup>75</sup> Moreover, the dormitories of Wings Nos. 2 and 5 were severely overcrowded (with each prisoner having a living space of a mere 2m<sup>2</sup><sup>76</sup>). Further, there was still no proper cell allocation system in place, and a number of inmates were compelled to share a bed or sleep on a mattress on the floor or in an improvised hammock in the common sanitary facilities (this was the case of the prisoners suffering from a mental disorder referred to in paragraph 90). In the CPT’s view, accommodating inmates in Wings Nos. 2, 5 and 8 of the closed section at Idrizovo Prison could easily be considered to amount to inhuman and degrading treatment.

57. In respect of the so-called “*ambulanta*” unit, which is adjacent to the main accommodation building, the situation had further deteriorated since the 2016 visit. At the time of the visit, the unit was accommodating 128 prisoners suffering from mental disorders including substance-use disorders and physical impairments. The cells were in an extreme state of dilapidation (i.e. dirty crumbling walls, holes in the floor and ceiling, missing electric bulbs, vermin infestation, filthy mattresses, absence of bedding and basic furniture) and the sanitary facilities were in an appalling state (floor level toilets emitting a foul stench, dripping taps and water installations, flooded floors, broken shower batteries). As was the case in the main building, the heating operated for only a couple of hours per day.

Conditions were also poor in terms of material conditions and hygiene and occupancy levels were high<sup>77</sup> in the two cells of the so-called “new geriatric unit” adjacent to the infirmary and one physically and intellectually disabled prisoner was sleeping on a mattress on the floor. In the CPT’s view, the conditions of detention in the so-called “*ambulanta*” of Idrizovo Prison could be considered as amounting to inhuman and degrading for those accommodated therein.

58. As mentioned in paragraph 9, in its preliminary observations at the end of the visit, the CPT’s delegation noted with concern that the DES envisaged the construction of a new pre-trial detention unit at Idrizovo Prison instead of replacing the closed-regime main building and the “*ambulanta*” in the context of Stage 2 of the re-construction project of Idrizovo Prison co-financed by the Council of Europe Development Bank. Consequently, the CPT’s delegation requested that the authorities review their plans and re-prioritise the construction of a closed-regime detention unit and of a prison health-care unit instead of a new pre-trial detention unit (see paragraph 9).

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<sup>75</sup> Inmates continued to resort to heating water in buckets with makeshift electrical elements attached to improvised wiring.

<sup>76</sup> For example, a dormitory in Wing No. 2 measuring 44 m<sup>2</sup> was accommodating 21 prisoners and another one in Wing No.5 accommodated 20 inmates in 43 m<sup>2</sup>.

<sup>77</sup> The two cells measured approximately 30 m<sup>2</sup> each and were accommodating seven and eight prisoners respectively at the time of the visit.

59. By letter dated 2 March 2020, the authorities of North Macedonia informed the delegation that in consultation with the CEB, the DES had undertaken the following measures in order to address the shortcomings identified by the CPT in its preliminary observations:

- Wings Nos. 2 and 8 of the closed-regime and the so-called “new geriatric unit” had been taken out of service and inmates transferred to other wings;
- 70 inmates had been transferred to other prison establishments;
- a number of inmates from closed-regime wings had been reclassified and transferred to the new semi-open detention unit;
- a re-prioritisation of Stage 2 of the reconstruction project had been agreed upon with the CEB and would now include the construction of a closed-regime accommodation unit for a capacity of 476 places (including a 74-bed health-care unit<sup>78</sup>), as well as a pre-trial detention unit with a capacity of 412 places.

That said, the Committee must express its concern that no information was provided by the DES in relation to its requests outlined in its immediate observations (see paragraph 9) in relation to the need to provide each inmate with a bed, the repair and proper maintenance of sanitary facilities as well as a general disinfection of the premises of the closed regime detention units and “*ambulanta*” at Idrizovo Prison.

60. The Committee considers that the construction of a closed-regime detention unit for sentenced prisoners under the project co-funded by the CEB will provide for a sustainable solution to the long-standing deleterious conditions in which prisoners have been, and continue to be, accommodated at Idrizovo Prison. That said, it cannot realistically be expected that the building of a new accommodation block for prisoners in the closed section will materialise before 2025.

Clearly, the minimum standards laid down in terms of conditions of detention outlined in Sections 156 to 162 of the LES are still not being complied with in several parts of Idrizovo Prison (such as the closed-regime detention units and the “*ambulanta*”). Further, the information provided in their response to the CPT’s preliminary observations does not address entirely the concerns expressed by the Committee, some of which date back to its 2006 periodic visit.<sup>79</sup> This represents, in the view of the Committee, a failure to co-operate.

**The CPT calls upon the authorities of North Macedonia to fully address the shortcomings outlined in respect of the material conditions at Idrizovo Prison by providing the necessary resources required to maintain decent conditions, by developing a professional management and supervision approach, recruiting and training adequate numbers of prison staff and by pursuing efforts to avoid overcrowding.**

Further, the national authorities need to take a series of short-term interim measures in order to provide acceptable conditions of detention in the existing facilities. **To this end, the Committee calls upon the authorities of North Macedonia to take immediate steps at Idrizovo Prison to:**

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<sup>78</sup> The accommodation unit for sentenced prisoners should also include an admission and a prison health-care unit with a capacity of 74 places each, a closed-regime detention unit of a capacity of 280 places, and a special-regime unit of a capacity of 68 places, as well as pathways and outdoor exercise facilities.

<sup>79</sup> See, in particular, paragraph 38 of the report on the 2006 visit.

- devise a phased programme to reduce the occupancy levels in multiple-occupancy dormitories to ensure a minimum of 4m<sup>2</sup> of living space per prisoner, excluding the sanitary facilities;
- render the establishment safe and hygienic through repairing the sanitary facilities, providing sufficient detergent and hygienic products, instituting a preventive health-care programme that emphasises cleanliness, replacing decrepit mattresses, providing clean bedding, eradicating the infestation of cockroaches and other vermin, replacing broken window panes and repairing the floors and roofs, ensuring adequate heating and artificial lighting in all living areas, etc.
- ensure that all prisoners are now provided with their own bed;
- put in place an allocation system throughout the entire establishment and pay special attention when selecting prisoners for shared accommodation in the interests of health, safety and security;
- adopt a rolling programme for the complete refurbishment and maintenance of the building of the so-called “*ambulanta*”, pending the construction of the 74-bed health-care unit as a matter of urgency;
- take Wing No. 5 out of service;
- ensure the regular maintenance of the artificial lighting and the heating system in the new semi-open and open-regime detention units.

The Committee wishes to receive a list of the concrete measures taken by the authorities of North Macedonia further to the above recommendations in addressing the shortcomings observed in relation to the different detention units of Idrizovo Prison, including details of the occupancy levels for each of the accommodation blocks of the establishment on an ongoing quarterly basis (see also paragraph 8).

b. Kumanovo Prison

61. Since the CPT’s previous visit in 2014, the road leading to the prison establishment has been asphalted and a water reservoir has been created in co-operation with a local company for the provision of water to the establishment.<sup>80</sup> The admission cells criticised by the CPT in its report on the 2014 visit have been taken out of service. However, the other deficiencies observed by the Committee in the course of its 2014 visit have not been addressed. In particular, the 13 cells of the remand section still lacked proper access to natural light, were poorly ventilated and electrical sockets in cells were still missing (leaving remand prisoners with only battery-operated radio devices). Further, the sanitary annexes were still not fully partitioned. The eight double-occupancy cells of the closed-regime sections, each measuring some 7m<sup>2</sup>, and the admission cell, showed serious signs of dilapidation only seven years after the opening of the establishment (holes in the ceiling, crumbling walls), the artificial lighting did not work and the cells were poorly equipped (absence of chairs). Finally, it was clear to the CPT’s delegation that the problem of the water supply had not been resolved; every prisoner met complained about the fact that water was still provided only for a couple of hours a day and inmates had to resort to filling plastic bottles in order to fulfil their basic needs.

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<sup>80</sup> The local company in question would permit the drainage of water from its reservoir in return for making available a workforce made up of a number of prisoners under the semi-open regime.

By letter dated 2 April 2020, the DES informed the Committee that refurbishments had been undertaken in cells (i.e. replacement of malfunctioning lights and repair of holes in the ceiling). Further, by letter dated 15 June 2020, the authorities of North Macedonia informed the Committee that a water tank truck had been purchased in order to ensure a regular supply of water to the establishment.

**The CPT recommends that the necessary steps be taken at Kumanovo Prison to ensure that the above-mentioned deficiencies are remedied. In particular:**

- **urgent steps should be taken to refurbish the cells of the closed-regime department as well as the admission cell;**
- **a regular water supply should be ensured in all parts of the prison;**
- **occupancy levels in the cells should be reviewed to ensure that prisoners are provided a minimum of 4m<sup>2</sup> of living space each in multiple-occupancy cells and that cells of 7m<sup>2</sup> do not accommodate more than one person;**
- **all cells should be equipped with functioning call bells;**
- **in-cell sanitary facilities should be partitioned fully in multiple-occupancy cells and electrical sockets be included in cells.**

c. Ohrid Prison (remand section)

62. The conditions of detention in the remand section of Ohrid Prison, consisting of six cells located in a separate one-storey building located between the juvenile detention unit and the nearby police station, had further deteriorated since the last visit in 2014. The cells, each measuring 10m<sup>2</sup>, were equipped with one or two sets of bunk-beds, tables, a chair and a fully-partitioned sanitary annex. However, the cells lacked a call bell, an electrical socket and they did not have any direct access to natural light. Further, artificial lighting was dim and the ventilation inadequate. Despite previous recommendations from the Committee that such cells should not accommodate more than two remand prisoners, three of them were accommodating three persons each at the time of the visit.

**The CPT recommends that the above-mentioned deficiencies at Ohrid Prison be remedied. Further, the Committee recommends that the necessary steps be taken to ensure that the cells in the remand section of Ohrid Prison do not accommodate more than two prisoners.**

d. Skopje Prison

63. The new director of Skopje Prison had managed to obtain investments for structural renovations,<sup>81</sup> and refurbishments in two cells of wing B had started a few days before the CPT's visit. Conditions in the rest of the establishment (i.e. wings C, D, G and A) continued to display the well-known material deficiencies already described in the Committee's previous reports. That is, cells were poorly lit and inadequately ventilated, there were no functioning call bells, no electrical sockets, in-cell toilets were still not fully partitioned, furniture was dilapidated and several cells were lacking chairs. The supply of detergent and personal hygienic products was also unsatisfactory. Several cells in Sections B and C displayed high levels of humidity and the walls were so impregnated with mould that inmates were obliged to place improvised wall hangings on them. The cells were also very cold with the heating only operating for a few hours a day. Occupancy levels remained high following the closure of several remand sections across the country and the conditions were cramped in several cells.<sup>82</sup>

Conditions in the closed regime section for sentenced prisoners, which consisted of six cells and a communal room, were also in a poor state of repair (damaged furniture and crumbling walls) and hygiene (insect infestation, lack of supply of cleaning products).

By letter dated 2 April 2020, the DES informed the Committee that, *inter alia*, the management of Skopje Prison had completed the renovation of cells in Wing B and was in the process of replacing mattresses in the rest of the establishment as well as providing prisoners with personal lockers and increasing the CCTV coverage in the common areas of the establishment. By letter dated 15 June 2020, the DES provided to the Committee photographic evidence of the above-mentioned renovation of cells in Wing B.

The Committee takes positive note of the commitment to upgrade the living conditions within Skopje Prison. That said, since the construction of a pre-trial detention unit at Idrizovo for a capacity of 412 places foreseen under stage 2 of the project co-funded by the CEB will not materialise before 2025, it is imperative that urgent interim measures be taken in order to address the structural and longstanding shortcomings highlighted by the CPT.<sup>83</sup>

**The CPT calls upon the authorities of North Macedonia to adopt a rolling programme of maintenance and refurbishment of all cells in the remand and closed-regime sections of Skopje Prison to address the shortcomings highlighted above. In addition, prisoners should be provided with appropriate quantities of hygiene products and have daily access to warm water, and cells should be adequately heated.**

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<sup>81</sup> These consisted in the installation of a photovoltaic roof and gas heating operating system and supplies of new mattresses and blankets, as well as the creation of a small facility for worship and prayer.

<sup>82</sup> For example, several cells measuring 8m<sup>2</sup>, including a semi-partitioned sanitary annex, accommodated three remand prisoners, and four remand prisoners were accommodated in cells measuring 11m<sup>2</sup>.

<sup>83</sup> By letter dated 30 April 2020, the authorities of North Macedonia informed the Committee of their intention to use Skopje Prison as a penitentiary establishment for short sentences once the pre-trial detention unit at Idrizovo Prison enters into service.



64. Female remand prisoners met by the delegation at Skopje Prison complained that their access to the shower (twice a week) had often been limited by one particular female prison officer to less than five minutes each time and that they were prevented from blow-drying their hair, due to the lack of electrical sockets in their cells. **Appropriate steps should be taken to remedy these deficiencies.**

e. Štip Prison

65. The conditions in the closed-regime section (consisting of three wings of eight cells and the former disciplinary unit of eight cells) had slightly improved since the 2016 visit as the entire section had been repainted in 2017 and was regularly sanitised. Further, the smaller former disciplinary cells on the ground floor (measuring 6m<sup>2</sup>) were only used for single occupancy. That said, the section still displayed certain deficiencies: sanitary annexes were still not fully partitioned, ventilation was inadequate and the common shower units were dilapidated (leaking pipes, broken shower heads and floor tiles). The common rooms were poorly equipped (they possessed chairs, wooden benches and a television set) the furniture was dilapidated and the artificial lighting was malfunctioning. Further, despite occupancy levels in the section having decreased since the 2016 visit, conditions remained overcrowded in several cells (e.g. cells measuring 9m<sup>2</sup> accommodated three inmates in Wings Nos. 1 and 2) and the living conditions were aggravated by the poor regime in force (see paragraph 70).

By letter received dated 2 2020, the DES informed the Committee that, following the receipt of the delegation's preliminary observations, action had been taken notably to refurbish the sanitary facilities in the closed-regime section. By letter dated 15 June 2020, the DES provided to the Committee photographic evidence of the above-mentioned refurbishment.

**The CPT reiterates its recommendation that immediate steps be taken to reduce the occupancy levels in the closed section of Štip Prison so as to meet the requirements of at least 4m<sup>2</sup> of living space per prisoner in multiple-occupancy cells. All cells should be properly heated.**

f. Gevgelija Prison (remand section)

66. The six double-occupancy cells of the remand section of Gevgelija Prison, each measuring approximately 9m<sup>2</sup>, displayed several deficiencies in terms of poor state of repair (such as dilapidated floor level toilets), non-partitioned sanitary annex and poor access to natural light. The Director had informed the delegation that a renovation plan existed to renovate the remand section of the establishment.<sup>84</sup> **The CPT recommends that the authorities of North Macedonia urgently address the above-mentioned deficiencies observed in the remand section of Gevgelija Prison in terms of state of repair of toilets, non-partitioning of in-cell sanitary annexes and poor access to natural light. To this end, the Committee would like to receive information on the above-mentioned renovation plan of the remand section of Gevgelija Prison.**

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<sup>84</sup> By letter dated 15 June 2020, the DES provided the CPT with photographic evidence of various renovation works conducted at the establishment such as the installation of solar panels and the procurement of new hot water boilers.

g. food and hygiene in the prisons visited

67. Section 161 of the LES regulates the norms concerning the preparation, distribution, quality and frequency of the provision of food to sentenced prisoners.<sup>85</sup> With the exception of Kumanovo Prison, where a professional cook had recently been hired, inmates from the other prisons visited complained about the quality of food served to them (i.e. in terms of lack of variation in the menu, absence of fresh vegetables and fruits and lack of account taken of the dietary needs of prisoners). The situation was particularly concerning at Idrizovo Prison where inmates were provided with only one meal per day at around 17h00 (in addition to bread in the morning) and food was distributed to them in a disrespectful manner (with metal containers placed on the floor at the entrance of the different wings). Further, the equipment of the central kitchen of Idrizovo Prison was dilapidated and in a poor hygienic condition (dirty floors). The prison doctor at Idrizovo Prison told the delegation that she had no responsibility for the quality oversight of the food or for the health control of inmates engaged in food distribution.

By letter dated 2 March 2020, the DES informed the Committee that three meals per day were now being distributed at Idrizovo Prison and that the modalities of its distribution were being reviewed in the light of the delegation's remarks and in compliance with the relevant national legislation.<sup>86</sup>

**The CPT once again calls upon the national authorities to take the necessary steps to ensure that:**

- **all meals provided to inmates correspond to the minimum legal norms provided for in the national legislation (Section 161 of the LES) and that the dietary requirements of prisoners with specific needs are duly respected;**
- **an oversight system for the quality and quantity of the food provided to prisoners is put in place;**
- **the kitchens are regularly inspected, with a special and constant focus on hygiene standards.**

68. According to Section 160 of the LES, the prison administration is required to provide a range of personal hygiene and cleaning products to inmates on a regular basis. This obligation was unfortunately not met, in particular at Skopje and Idrizovo Prisons, where several inmates indicated that supplies were delivered at irregular intervals, representing a serious problem for the most vulnerable prisoners who could not rely on the support of their families.

**The CPT recommends that all prisoners at Skopje and Idrizovo Prisons be provided with adequate quantities of essential personal hygiene products as well as cleaning products for their cells.**

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<sup>85</sup> The section in question reads as follows: "(1) A sentenced person is entitled to have adequate nutrition adequate for their good health and body. (2) Sentenced persons are provided with food which must contain at least 12,500 joules on a daily basis per person. (3) Food should be served in three meals a day, in the usual hours for meals and to be decently served. (4) The food must correspond to the scientific findings about nutrition and must be diverse and tastefully prepared. (5) The Minister of Justice shall adopt a rulebook on the norms for food preparation.

<sup>86</sup> In particular, the Rulebook on Food Preparation for Convicted Persons in Penitentiary Institutions.

## 5. Regime

69. The Committee has repeatedly stressed the importance of providing prisoners with work and a set of activities of a purposeful and diverse nature (e.g. vocational, cultural, sports activities) in order to fulfil the aims of imprisonment. The new LES contains specific provisions on this topic. Further, a cognitive behavioural programme for the rehabilitation of prisoners based on an individualised approach has been developed since 2017 in co-operation with the Council of Europe, to develop a series of detailed treatment programmes for various categories of inmates (i.e. prisoners sentenced to life imprisonment, drug dependent prisoners, female prisoners, etc.). Finally, a new Rulebook on Classification and Accommodation of Sentenced Prisoners was adopted in the course of 2019, providing for new criteria for the assessment, progression and regression of inmates between different regimes.<sup>87</sup>

### a. sentenced prisoners

70. In practice, based on the observations of the CPT's delegation in the course of the 2019 periodic visit, the regime on offer to sentenced prisoners remained impoverished, in particular for those classified under a closed regime, and the efforts invested by treatment staff in the assessment of inmates upon their admission to prison were not adequately supported by a set of treatment activities of a purposeful and varied nature: work, preferably with vocational value; education; sport; recreation/association, tailored to the needs of each category of prisoner.

At Idrizovo Prison, a total of 329 prisoners were offered remunerated activities.<sup>88</sup> However, only 91 of the 573 prisoners in the closed regime were engaged in work,<sup>89</sup> and in practice the only activities being offered to some of these inmates, apart from the two hours of outdoor exercise every day, were access to a gym twice a week<sup>90</sup> and to the library and elementary educational classes provided by an external teacher.<sup>91</sup> Inmates from all nine wings of the main building belonging to different categories (i.e. life-sentenced prisoners, terrorist-related offenders, drug dependent, sex offenders, foreigners) were being offered the same impoverished regime of activities with no differentiation. In particular, the CPT's delegation was concerned to observe that even in the newly inaugurated open and semi-open regime units, most of the inmates were not engaged in any purposeful activity of a rehabilitative nature during the day. The situation of the 48 female prisoners at Idrizovo Prison was slightly more favourable as they were offered vocational activities,<sup>92</sup> and 35 were working at the time of the CPT's visit.<sup>93</sup>

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<sup>87</sup> In principle, inmates sentenced to a prison sentence of more than three years are classified under a closed regime (as well as recidivists classified as high risk); those sentenced to imprisonment of up to three years may be classified to semi-open and open regime depending on various penological risk assessment categories. Further, every regime is divided into sub-categories marking the progression of inmates in their classification path (i.e. V1, V2, V3 for closed-regime prisoners, B1, B2, B3 for those under a semi-open regime and A for those classified under an open regime).

<sup>88</sup> 91 from the closed regime, 56 from the semi-open regime, 95 from the open regime, 39 from the detached open regime establishment in Veles and 48 females from the dedicated self-standing unit in the course of November 2019.

<sup>89</sup> Predominantly on food distribution, bakery and the infirmary, as well as on various maintenance tasks.

<sup>90</sup> For those classified under the V3 group.

<sup>91</sup> For those inmates who have not completed compulsory education.

<sup>92</sup> I.e. hairdressing, sewing and bakery.

<sup>93</sup> I.e. attendants, kitchen assistants, cleaners, laundry.

At Kumanovo Prison, all 60 prisoners belonging to the semi-open regime were involved in work.<sup>94</sup> That said, several inmates told the delegation that they were forced to work long hours excavating the nearby water reservoir with the local company under the threat of being deprived of prison leave. Further, they complained that they were not being paid for the extra hours which they were compelled to work. The 14 inmates classified under the closed regime were only offered access to outdoor exercise once a day for two hours. It was particularly striking that the most immaculate parts of the establishment were the basketball and football pitches which were never used by inmates due to security concerns linked to the nearby perimeter wall.

At Skopje and Štip Prisons, several workshops,<sup>95</sup> vocational activities<sup>96</sup> and work<sup>97</sup> were offered to inmates classified under open and semi-open regimes. That said, none of the inmates subject to a closed regime had a remunerated activity or was allowed to take part in any of the few vocational activities on offer to prisoners under a semi-open regime. As a result, they spent the entire day in their cells and the community rooms and were only offered access to an outdoor exercise yard (with no sports equipment) for periods of up to two hours a day.

71. The Committee regrets that, despite several commitments made by the authorities of North Macedonia such those included in the “2014-2019 National Strategy on the Development of the Penitentiary System”, sentenced prisoners continue to be offered hardly any purposeful activities, contrary to the provisions of the new LES. The CPT remains convinced that until such time as a full and purposeful regime is not offered to inmates, they will continue to remain exposed to the risk of reoffending at their of their period of incarceration. In this respect, the DES should reassess the current possibilities for work, education and recreational activities available to prisoners and promote their development, including with outside partners such as civil society and private companies.

**The CPT once again calls upon the authorities of North Macedonia to take the necessary measures to ensure that all sentenced prisoners are offered activities of a purposeful and diverse nature, in order to comply with the basic aims of imprisonment, in line with the above remarks.**

72. In terms of educational activities, Section 173 of the LES tasks the Ministry of Education and Science to organise and finance the education of sentenced prisoners. The delegation was informed that at the time of its visit the Ministry of Education and Science had not yet agreed upon a memorandum with the DES to comply with the above-mentioned tasks. Consequently, the educational courses provided in the prison establishments visited were based on ad hoc arrangements between the relevant establishment and teachers from schools in the community.

**The CPT urges the authorities of North Macedonia to ensure that the Ministry of Education and Science and the DES work rapidly to conclude an agreement to enable the Ministry of Education to develop and finance educational courses for sentenced prisoners in accordance with the relevant LES provisions.**

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<sup>94</sup> Work consisted of general maintenance tasks as well as 10 prisoners engaged by local firms. Only a small number of posts were remunerated.

<sup>95</sup> A carpentry workshop at Skopje Prison.

<sup>96</sup> 21 prisoners were attending vocational courses for cooks and locksmiths at Štip Prison.

<sup>97</sup> 107 prisoners from the semi-open regime unit at Štip Prison were working in the local farm attached to the establishment.

73. From an examination of the prison risk assessments of prisoners, individual sentence plans and assessment reports (of a criminological, social and psychological nature) as well as from interviews with staff responsible for the rehabilitation of the sentenced prisoners, the delegation concluded that an excessive emphasis was placed on the assessment of prisoners upon their admission to prison rather than offering a satisfactory set of purposeful rehabilitation and resocialisation activities, notably at Idrizovo Prison.

There were still no specific targeted activities in place for special groups of prisoners such as life sentenced prisoners, prisoners deemed as dangerous, persons sentenced for a sexual offence and drug dependent prisoners although programmes had been developed for this purpose in co-operation with the Council of Europe.<sup>98</sup> Further, there was still no proper pre-release programme in place.

**The CPT recommends that the authorities of North Macedonia finally implement in practice a range of targeted activities of a rehabilitative nature in respect of the above-mentioned special groups of prisoners and in line with the recently established rehabilitation programmes for these categories of inmates. Further, the Committee recommends that the DES develop and implement pre-release programmes for prisoners, in line with the specific provisions of the LES.**

b. remand prisoners

74. The regime of remand prisoners (284 at the time of the visit of whom 246 were accommodated at Skopje Prison) is regulated by the relevant provisions of the CCP whereby prisoners on remand have a right to a minimum of two hours of outdoor exercise per day. In practice, despite a few improvements introduced by the new Director of Skopje Prison consisting of the creation of a room for religious worship and an increase in the supply of books to the prison library, the regime applied to remand prisoners at Kumanovo, Skopje and Ohrid Prisons still resembled “a relic of the repressive past”.<sup>99</sup> In particular, in none of the remand sections visited was the two-hour entitlement of daily outdoor exercise complied with. The average period of outdoor exercise ranged from 45 minutes to one hour per day. Female remand prisoners at Skopje claimed that they were usually able to go outside into the open air every day for an even shorter period of time. Remand prisoners were thus usually confined to their cells for more than 23 hours per day with no other occupation than reading, playing board games and listening to the radio. Such a state of affairs is not acceptable. Further, electrical sockets had still not been installed in the cells and TV was not available even at the prisoners’ own expense, despite a specific requirement in the relevant house rules. Moreover, outdoor yards had no basic exercise equipment.

At the outset of the visit, the delegation had been informed that in the context of the adoption of the new Rulebook on House Rules for the Execution of Remand Detention, attention was being given to the possibility of including provisions on the offer of purposeful activities including work to remand prisoners in line with the CPT’s previous recommendations.

**The CPT calls upon the authorities of North Macedonia to take the necessary steps to provide educational, cultural and sports activities for remand prisoners with a view to enabling them to spend a reasonable part of the day outside their cells.**

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<sup>98</sup> The DES informed the CPT’s delegation that such specialised treatment programmes had been successfully piloted and staff responsible for the rehabilitation of the sentenced prisoners trained in their implementation.

<sup>99</sup> See paragraph 32 of the report on the 2016 ad hoc visit to North Macedonia.

**Once again, the CPT has to request the authorities of North Macedonia to abide by their own national legislation regarding access to outdoor exercise for prisoners on remand. To this end, it wishes to receive confirmation that all remand prisoners are now offered two hours of outdoor exercise every day, in accordance with the Code of Criminal Procedure.**

75. More generally, the CPT wishes to point out that Skopje Prison was designed for male prisoners to be managed by male staff and that there were no specific rules and regulations to address the particular needs of women prisoners. However, women have particular biological and gender-specific needs that require an alternative prison policy oriented towards their requirements.<sup>100</sup> **The CPT recommends that the authorities of North Macedonia develop a gender-specific approach towards female remand prisoners at Skopje Prison and, where appropriate, in other prisons.**

76. At the time of the CPT's visit there were no juveniles in pre-trial detention at Skopje Prison. However, juveniles met by the delegation at Ohrid Prison who had been previously held at Skopje Prison while on remand, told the delegation that they had been kept for several months in a single cell in conditions akin to solitary confinement without any proper social contact with staff. In previous reports, the CPT has raised the importance of providing all juveniles in detention with a range of purposeful activities and adequate social contacts.

**The CPT reiterates its recommendation that the authorities of North Macedonia take steps to provide all juveniles accommodated at Skopje Prison, regardless of their period of detention, with a full programme of purposeful activities (including education, sport, and recreation).**

## **6. Health care**

### a. introduction

77. At the time of the visit in December 2019, the transfer of responsibility for prison health-care services to the Ministry of Health (i.e. Agency for Public Health Administration) had been completed following the adoption of a Government decision and the assignment of prison health-care staff from the respective regional public health-care centre (PHCC) to each prison. Further, Section 182 of the new LES also regulates the issue of health-care insurance and provides for the expenses for their secondary and tertiary health-care needs for prisoners to be covered. However, from the information gathered on the ground, it appeared that many key issues have not been addressed in the transfer process, such as:

- defining the minimum levels of health-care staff presence in each prison based on a needs assessment analysis;
- providing adequate training for health-care staff operating in prisons and coming from a PHCC;

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<sup>100</sup> See in particular the thematic factsheet on [“Women in Prison” which was published](#) by the CPT on 29 January 2018 (CPT/Inf (2018)5).

- establishing a central department at the level of the Agency for Public Health Administration in charge of the co-ordination of the activities of the various territorial PHCCs;
- quality control as well as the certification of the relevant medical units in prison establishments.

Finally, it remained unclear at the time of the visit whether the instructions and protocols issued by the DES in the field of prison health-care in 2013 continued to apply as most of the health-care staff met by the CPT's delegation appeared to be unfamiliar with their content.<sup>101</sup>

78. By letter dated 2 April 2020, the DES informed the Committee of an agreement it had concluded with the Ministry of Health concerning the adoption of health-care protocols for the treatment of inmates, as well as for the training of health-care staff on working in a prison environment.

Whilst acknowledging the adoption of the above-mentioned agreement, **the CPT recommends that the Ministry of Health address the specific issues highlighted above. It would like to receive detailed information on the specific health-care protocols envisaged and the training proposed for health-care staff.**

b. health-care staff

79. Following the transfer of responsibility for prison health care to the Ministry of Health, the plan is for smaller prison establishments to receive periodic visits from a General Practitioner (GP) from the local PHCC while nursing staff would be based in the establishment. On the other hand, the largest prison establishments would retain in general the same health-care staffing complement under which they had been operating prior to the transfer of responsibility.

Effectively, at the remand section of Gevgelija Prison one GP and one nurse from the local PHCC visited the establishment twice a week and if there were any newly admitted prisoners.

At Kumanovo Prison, one GP from the local PHCC visited the establishment twice a week and one full-time nurse was present during weekdays (from 7h30 to 15h00). In addition, a dentist visited the establishment twice a month.

At Ohrid Prison, a GP from the local PHCC visited the establishment once a week (and upon request in the case of new admissions) but there was no nursing presence. Two senior female custodial officers ensured the distribution of medication (see paragraph 113).

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<sup>101</sup> DES Protocols and Instructions on: 1) convicts' access to a physician; 2) the duties and ethics of the medical staff; 3) a medical examination upon reception; 4) the procedure for medical examination in the case of the use of force, hunger strike, separation and self-injury; 5) hygiene control and food and drinking water distribution; 6) inter-sector co-operation in the field of medical care; 7) minimum technical standards for medical care units; 8) procedure for recording signs of violence; 9) a medical examination of convicts upon release; 10) a medical examination upon release of remanded persons.

Protocols for 1) distribution of substitution therapy – methadone; 2) protocol on prevention of sexually transmitted diseases and condom distribution; 3) health care of sentenced persons with hepatitis C; 4) health care of sentenced persons with HIV/AIDS; 5) health-care services for sentenced persons with tuberculosis.

Further, arrangements were in place at Gevgelija, Kumanovo, Ohrid and Štip Prisons for the referral of inmates suffering from mental disorders to a psychiatrist at the local PHCC (see paragraph 89).

80. As concerns the larger prison establishments:

At Skopje Prison, the staffing complement consisted of two full-time equivalent (FTE) GPs, one FTE dentist, two FTE nurses and a psychiatrist who visited the establishment twice a week.<sup>102</sup> In terms of GP presence, this was appropriate as the health-care unit was responsible for up to 310 remand prisoners and 128 sentenced prisoners. That said, the newly arrived second GP viewed her assignment to work in a prison setting as a punishment from the PHCC for leading a corporate trade union initiative. Further, there is a need to reinforce the nursing complement as an establishment of this size ought ideally to have eight FTE nurses.

At Štip Prison, the staffing complement consisted of one FTE GP, one FTE nurse and one FTE dentist, and an arrangement was in place for regular visits by a psychiatrist from the local PHCC. For an inmate population of 217 persons, the GP presence is sufficient but there is a need to reinforce the nursing presence in the establishment by at least one additional post.

At Idrizovo Prison, the health-care staffing situation had further deteriorated since the visit in 2016 and consisted of only one FTE GP (previously two), two FTE nurses and a dentist.<sup>103</sup> A psychiatrist visited the prison establishment twice a week. For a prison population of 1,200 inmates, many of whom were in poor health and being held in appalling conditions, such a staffing complement is totally insufficient and the team was completely overwhelmed. Further, the Idrizovo health-care team continued to be supported by six “assistant” prisoners who were essentially performing nursing duties such as maintaining the health-care registers, distributing medication and being on-call to deliver care to other prisoners when no member of the health-care team was present. In the CPT’s opinion, prisoners should not be involved in such duties in order to substitute the lack of health-care staff.

**The CPT calls upon the relevant authorities to carry out a detailed needs assessment to determine the precise requirements in terms of health-care staff (as well as facilities and equipment see paragraph 82) at all prison establishments in the country, starting with Idrizovo Prison. In particular, the practice of engaging prisoners to be on-call in the absence of a member of the health-care team should be stopped and the number of nurses increased at Idrizovo Prison.**

**In particular, the number of qualified nurses should be substantially increased as soon as possible, and at least one clinical psychologist should be recruited at Idrizovo Prison (see also paragraph 89).**

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<sup>102</sup> The official working time was Monday to Friday from 7h30-15h00. On Saturday, one GP and one nurse visited the prison on a rotational basis from 7h30-12h00. Outside the working hours, the city’s emergency service was called if needed.

<sup>103</sup> The medical staff were present in the prison from 7h30 to 15h30 on working days. On weekends and public holidays, either the GP or one of the nurses, in turns, visited the prison for a couple of hours in order to distribute methadone.



**Further, the Ministry of Health should provide systematic training for health-care professionals working in prisons, *inter alia* on medical ethics in prison, prevailing prison pathologies such as mental disorders, substance-use disorders, suicidality, transmissible diseases including HIV/AIDS, hepatitis B and C and recording and reporting of injuries (see paragraph 93).**

c. access to a doctor

81. In general, sentenced and remand prisoners told the delegation that they did not experience any particular problem in obtaining access to a doctor at Skopje, Štip, Kumanovo and Ohrid Prisons. The inmates would normally write a request ("*molba*") which they would hand over to health-care staff or, in their absence, to a prison officer.<sup>104</sup> That said, at Idrizovo Prison, the situation had not evolved since 2016 and male inmates from the main accommodation building and the "*ambulanta*" told the delegation that access to a doctor generally required payment as all requests were filtered by prison officers. The dedicated box installed at the entrance of the main building supposedly to collect requests to see the health-care service was covered in a thick layer of dust and the GP confirmed to the delegation that it had never been used as her staff were not in possession of the keys to the box.

**The CPT reiterates its recommendation that the authorities of North Macedonia take steps to ensure that prisoners at Idrizovo Prison are able to approach the health-care service on a confidential basis, for example, by means of a message in a sealed envelope and use of a mail box to which only the health-care staff have access. Further, prison officers should be reminded of their duty not to filter prisoners' access to the health-care service.**

d. medical units<sup>105</sup>

82. The health-care facilities<sup>106</sup> at Kumanovo Prison were equipped with an electrocardiogram (ECG), a defibrillator and dental equipment which were in a very good state of repair and hygiene. The small infirmary of Skopje Prison was equipped with a defibrillator, an oxygen cylinder and mask, and an ECG and was in an acceptable state of hygiene and functionality. That said, the dental equipment was outdated and the dental surgery was in a poor state of hygiene.

The situation at Idrizovo Prison was distinctly worse. The only improvement was the GP's consulting room which the GP had renovated with her own funds. The equipment (i.e. ECG, defibrillator and oxygen mask) was dilapidated, as was the dental chair, and the dental equipment was out of order (i.e. absence of dental X-ray machine and obsolete steriliser). Further, there was no heating in the dental surgery and the prison management had denied its responsibility to remedy this ongoing problem due to the transfer of prison health care to the Ministry of Health. In sum, nothing had been done since 2016 to address the recommendations made by the CPT.

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<sup>104</sup> The delegation did not gather any indications that prison staff were filtering such requests at the mentioned prison establishments.

<sup>105</sup> The delegation did not visit the medical unit at Štip Prison but was informed that it had been recently equipped with a defibrillator.

<sup>106</sup> The infirmaries generally consisted of a GP's office, an examination room and a dental surgery.

**The CPT recommends that the Ministry of Health, in co-operation with the DES, carry out a control of the premises and equipment of all prison health-care units and infirmaries, starting with Idrizovo Prison. Further, the State Sanitary and Health Inspectorate of the Ministry of Health should take full responsibility for overseeing the renovation, inspection and licensing of health-care units in prison establishments, including as regards their equipment.**

e. medical screening

83. The Rulebooks on House Rules for Sentenced and Remand Prisoners provide that a medical visit upon admission be conducted within 24 and 72 hours respectively. Such provisions were in general respected at Gevgelija, Skopje, Kumanovo and Ohrid Prisons. The medical screening visit consisted of a short medical history<sup>107</sup> and a physical examination.

At Idrizovo Prison, newly admitted inmates were examined by a doctor only after several days or even weeks following their admission and there was no system in place to inform doctors about new admissions. The prison doctor told the delegation that she had to resort to informal inquiries through assistant prisoners to identify new arrivals in the various wings of the establishment in order to invite them to a medical screening.

**The CPT reiterates its recommendation that the authorities of North Macedonia remind all prison directors and health-care staff that every newly arrived prisoner should be properly interviewed and physically examined as soon as possible, and no later than 24 hours after admission by a doctor or by a fully-qualified nurse reporting to a doctor. In this respect, a systematic referral mechanism should be put in place in order to inform health-care staff promptly of any new admission to prison (including from escape or late arrival from leave). The CPT wishes to be informed in detail of the steps taken in this regard at Idrizovo Prison.**

84. As was the case during past visits, there was no systematic screening for transmissible diseases upon admission to prison at any of the establishments visited and prison health-care staff were not aware of the relevant DES instruction issued in 2013.<sup>108</sup> In practice, testing for hepatitis B, hepatitis C and HIV was performed only incidentally on suspicious cases<sup>109</sup> and at Idrizovo Prison the TB screening was based on a standard questionnaire compiled during the admission screening. Further, the Institute for Tuberculosis and Lung Diseases from Skopje organised photofluorography for inmates at Idrizovo Prison once a year.<sup>110</sup> In conclusion, at none of the establishments visited was there any official information on the number of hepatitis B and C and HIV-positive prisoners. Given the availability of drugs and moreover the number of prisoners who were confirmed as injecting drugs and the absence of a comprehensive approach that included *inter alia* harm reduction education and needle exchange programmes, the number of prisoners infected with hepatitis C was likely to be high, in particular at Idrizovo Prison.

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<sup>107</sup> I.e. previous and current diseases, medication prescribed, drug abuse, measuring of blood pressure and lung auscultation.

<sup>108</sup> See point 3 of footnote 95.

<sup>109</sup> I.e. rapid-testing kits were available in the pharmacy of Idrizovo Prison.

<sup>110</sup> At the outset of the visit, the CPT's delegation was informed that the projects implemented by the NGO HERA providing testing on HIV and hepatitis B and C had been terminated due to lack of funds in the course of 2017.

**The CPT reiterates its recommendation that the authorities of North Macedonia take the necessary steps to ensure that, in all prisons in the country, all newly arrived prisoners are subject to a comprehensive medical examination (including systematic TB screening and voluntary testing for HIV and hepatitis B/C). Further, reference is made to the recommendation in paragraph 92 on the need to introduce adequate harm reduction measures in the prison establishments nationwide.**

85. As regards the recording and reporting of injuries observed by health-care staff following the admission of an inmate to prison, the CPT has noted that the DES issued an instruction to all prisons on 20 November 2014,<sup>111</sup> obliging them to keep a record of all prisoner injuries noted either upon admission or during the period of custody. Further, the above-mentioned instruction requires prison directors to notify in writing the competent prosecutorial and judicial authorities, as well as the DES, each time injuries compatible with alleged physical ill-treatment are observed on a prisoner.

From the information gathered by the CPT's delegation in the course of the 2019 visit, the 2014 Instruction was being followed at Kumanovo, Ohrid and Skopje Prisons, both in terms of the recording of injuries and the reporting of them to the prison director and the relevant prosecutorial authorities. That said, at Gevgelija Prison the delegation was informed that allegations of police ill-treatment raised by newly admitted prisoners were not being recorded upon their admission. Further, the description of injuries was often cursory and the link between the cause of the injury and its consistency with the inmate's allegations was absent in the documentation consulted. Further, no photographs of injuries observed on inmates were taken in any of the establishments visited. In principle, every prison establishment possessed an injury register, examination of which showed that such documents were not standardised.

**The CPT reiterates its recommendation that steps be taken to ensure that the prison medical services at Gevgelija, Kumanovo, Ohrid and Skopje Prisons, as well as in all other prisons, fully play their role in preventing ill-treatment, ensuring that:**

- **the records drawn up following the medical examination of newly admitted prisoners contain: (i) a full account of objective medical findings based on a thorough examination (supported by a “body chart” for marking traumatic injuries and, preferably, photographs of injuries), (ii) an account of statements made by the person concerned which are relevant to the medical examination (including his/her description of his/her state of health and any allegations of ill-treatment), and (iii) the health-care professional's observations in the light of (i) and (ii), indicating the consistency between any allegations/statements made and the objective medical findings;**
- **a standardised register of injuries observed on inmates is introduced.**

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<sup>111</sup> In February 2013, the Director of the DES had issued “Instruction on the Procedure for Recording the Signs of Violence on Remanded and Convicted Persons in the Institution”, which provides for detailed guidelines for the prison health-care service on documenting and reporting of physical, psychological or sexual violence against inmates (caused by fellow inmates or staff), as well as for an obligation to keep records and collect statistical data.

f. medical confidentiality

86. The situation surrounding the respect of medical confidentiality remained unchanged in the course of the 2019 visit. With the exception of Kumanovo Prison where inmates were examined by the visiting GP without the presence of prison staff on a regular basis, at Idrizovo, Ohrid, Skopje and Štip Prisons, medical examinations routinely took place in the presence of prison staff and “assistant” prisoners (acting as “nurses”), despite the existence of several instructions and guidelines on the need to respect the confidentiality of prisoners. Once again, the reality within the prisons was not in line with the policy being promoted by the DES. Further, confidentiality of medical data was not at all respected at Idrizovo Prison as the assistant prisoners had full access to medical documentation.<sup>112</sup> At the other prison establishments visited, there was no uniform and standard procedure on the keeping of medical documentation and often medical records were not separated from inmates’ personal files.

**The CPT calls upon the national authorities to ensure that medical examinations of prisoners are always conducted out of the hearing and – unless the doctor concerned expressly requests otherwise in a given case – out of the sight of non-medical staff. Further, immediate steps should be taken to replace prisoners performing nursing duties with qualified health-care staff.**

g. distribution of medication

87. The stock and supply of medication appeared to be adequate at all prison establishments visited and was securely stored.<sup>113</sup> That said, prison health-care staff told the delegation that several interruptions in the supply of all types of medications had occurred during the period when responsibility for prison health care<sup>114</sup> was being transferred to the Ministry of Health.

**The CPT recommends that the Ministry of Health established a supervisory mechanism at the national level for the storage and supply of medication in order to ensure its uninterrupted supply. Further, a list of essential medication continuously available for primary health-care should be established.**

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<sup>112</sup> Two of them had the keys of the medical premises.

<sup>113</sup> The supply of medication to prison establishments was being performed through the same central pharmacy in use for the civilian population.

<sup>114</sup> The problem was apparently partially overcome due to the resort to private donations and the investments of families of inmates.

88. The distribution of medication was being performed by health-care staff at Idrizovo and Skopje Prisons and by custodial staff at smaller prison establishments during evenings and weekends according to prepared dosages by nurses. The modality of unsupervised distribution still appeared very problematic at Idrizovo Prison: prisoners were receiving all their prescribed medication for seven days or for even longer periods and only a limited number of prisoners were on “supervised treatment”, meaning that they were obliged to attend the infirmary on a daily basis and take their morning doses in the presence of medical and custodial staff; the remaining therapy for the day was given to them “in possession”.<sup>115</sup> This was particularly problematic in relation to certain specific prescribed medications. For example, inmates were being distributed dosages of anti-epileptic drugs<sup>116</sup> and benzodiazepines as “in possession” therapy. Consequently, the availability of psychotropic medication on the black market was omnipresent and pills were sold or exchanged for cigarettes (see paragraph 90).<sup>117</sup> Further, the distribution of Opioid Agonist Therapy (OAT) to inmates was also unsupervised at the prison establishments visited. For example, in respect of methadone, staff did not check that the dose had actually been swallowed by the inmate; as to buprenorphine, staff did not supervise that the tablet had been placed under the inmate’s tongue and left to dissolve for three to five minutes.

**The CPT recommends that the necessary steps be taken in all prison establishments to ensure that the distribution of OAT is performed solely by health-care staff. The supervised consumption procedure should be introduced (as one of the key components of OAT programmes), in order to minimise the possibility that doses are sold on the black market. In addition, to prevent diversion onto the black market, the other benefits of supervision are to ensure that adequate blood and tissue levels of OAT are maintained (therefore reducing the need for additional opioids) and to provide an opportunity to health care staff to make a daily assessment of compliance with the programme and of the general health and well-being of the patient. A prison in-possession policy should be developed and implemented; a list of medication should be drawn up, specifying medication exclusively distributed by health-care staff in single doses (e.g. psychotropic substances).**

h. specialist health care

89. According to the health-care staff met by the CPT’s delegation, one of the few positive aspects of the recent transfer of stewardship was represented by the unhindered access of prisoners to hospital for emergency purposes and the improved modalities of access to outpatient secondary specialist care. That said, the access to specialist care for remand prisoners at Skopje Prison remained problematic in the light of the delays caused by the mandatory judicial authorisation. Sentenced prisoners at Idrizovo Prison complained that their scheduled specialist extra-mural examinations were often cancelled due to shortages of escorting staff and vehicles.

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<sup>115</sup> Including different types of psychoactive substances.

<sup>116</sup> Such as phenobarbital tablets of 100 mg.

<sup>117</sup> In the Instructions on access to health-care and distribution of medication issued by the Directorate for the Execution of Sanctions and published in the Official Gazette Nos. 58/2000, 44/2002, 167/2010 and 51/2011, Section 7 reads: psychopharmacotherapy: sedatives, neuroleptics, hypnotics etc. should be kept in the prison’s pharmacy and should be given in a single dose to sentenced prisoners by medical personnel. Generally, almost all the articles from the above-mentioned Instructions remained a dead letter.

**The CPT recommends that the Ministry of Health draw up a list of contracted specialists who can visit Idrizovo Prison on a regular basis in order to reduce the necessity for prison escorts out of the establishment.**

**Further, the Committee recommends that the involvement of courts in health-care matters be brought to an end. Any restrictions imposed on remand prisoners should be based upon a thorough individual risk assessment by the prison authorities.**

90. As mentioned in paragraph 79, a psychiatrist was paying regular visits to the prisons of Idrizovo (three times a week) and Skopje (twice a week) and arrangements were in place in the other establishments for the referral of inmates suffering from mental disorders to the local PHCC. In this respect, several inmates at Štip Prison complained about the difficulties in arranging a consultation with a psychiatrist from the local PHCC.

The situation at Idrizovo Prison was particularly problematic. The delegation was concerned by the number of inmates suffering from a mental disorder who were not provided with continuous psychiatric care. For example, two psychiatric patients<sup>118</sup> were being accommodated in an improvised cell of the first floor of an “*ambulanta*” (previously in use as a storage facility) in an extremely poor state of repair and hygiene (dim artificial lighting, filthy old mattresses and blankets with no linen, door and table “repaired” with cardboard) and with no chair or in-cell toilet. These patients were locked in their cell at about 19h00 until 7h00 the next morning and had to resort to using buckets whenever they needed to urinate or defecate. One of the patients was sitting on his bed, staring at the floor and was unresponsive to the questions of the delegation members. The two patients also received unsupervised psychiatric medication which they exchanged for cigarettes.<sup>119</sup> Their personal files showed that they had not been referred to a psychiatric establishment for several years.

Further, the delegation met two prisoners in Wing No. 2 who were clearly mentally ill but who were receiving no treatment. One of them diagnosed with an acute and transient mental disorder (F23.8)<sup>120</sup> slept in an improvised hammock in the sanitary facilities of the wing in the appalling hygienic conditions described in paragraph 55 and the second in the corridor of the same wing on a filthy mattress. Prison staff displayed an ignorance of these persons’ mental health status which typified the negligent approach towards prisoners in this wing, which is also why these prisoners were able to choose not to sleep in their own dormitories.

**The CPT recommends that the authorities of North Macedonia take the necessary steps to ensure that, throughout the prison system, all prisoners diagnosed with a mental disorder prior to imprisonment are reassessed and that those in need of in-patient care are hospitalised without delay. More generally, all prisoners suffering from an acute mental disorder should be transferred to an appropriate psychiatric facility where they can receive adequate treatment. Further, a full-time psychiatrist should be recruited at Idrizovo Prison in order to ensure regular psychiatric treatment for inmates suffering from a mental disorder.**

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<sup>118</sup> They had both been hospitalised at Bardovci Psychiatric Hospital and were suffering from depression and schizophrenia.

<sup>119</sup> One of them was receiving daily unsupervised dosages of Amitriptyline 25mg and Diazepam 10mg which he exchanged for cigarettes.

<sup>120</sup> The diagnosis had been established several years previously and the patient had not been reclassified despite the chronic nature of his disorder.

**Further, the Committee recommends that the authorities of North Macedonia strictly comply with the above-mentioned principles and in particular take steps to train general practitioners and nurses in the detection and care of persons with a mental disorder in order to support the small number of available psychiatrists at the level of the PHCC.**

i. prisoners with substance-use disorders

91. The CPT's delegation reviewed once again the situation of prisoners with opioid-use disorders in terms of OAT, harm reduction and psychosocial rehabilitation. At Idrizovo, Skopje and Ohrid Prisons, inmates (including remand prisoners) were easily admitted into an OAT during imprisonment upon a positive urine test for opioids. At Kumanovo Prison, there was no continuation of methadone therapy upon imprisonment.<sup>121</sup> For example, a prisoner under OAT in the community<sup>122</sup> had had his substitution treatment terminated upon admission to prison on 29 October 2019. The prisoner in question had not been prescribed any medication for alleviating his withdrawal symptoms (i.e. anxiety, insomnia, abdominal cramping, nausea, vomiting, diarrhoea etc.) and had been referred for a psychiatric consultation by the prison GP only one month after his admission.<sup>123</sup> During his opioid withdrawal he committed several acts of self-harm.

At the time of the visit there were 179 prisoners under OAT at Idrizovo Prison<sup>124</sup> and 29 at Skopje Prison<sup>125</sup>. As mentioned in paragraph 88 the intake of OAT treatment was not adequately supervised at Idrizovo Prison, giving rise to serious problems of medication trading and consequently overdose (see paragraph 94). Further, a detailed examination of the medical files of inmates indicated that a comprehensive evaluation was missing, as well as a clear clinical diagnosis of their opioid addiction. Further, there was no needle-exchange programme available in any of the prisons at the national level nor any type of psychosocial rehabilitation activity for prisoners with drug related problems.

92. In the CPT's view, a comprehensive evaluation should establish a patient's eligibility for methadone pharmacotherapy on the basis of the following: opioid-use disorder symptoms; objective findings and subjective reports regarding the patient that support the need for pharmacotherapy; a judgment that the patient is capable of understanding and participating in a treatment programme and the express willingness of the patient to enter into treatment after the nature of that treatment has been carefully explained to him/her. Once a primary diagnosis of opioid addiction has been made, an assessment of its duration and severity should determine the most appropriate treatment for the patient. The decision to treat should include consideration of all available treatments, including non-pharmacological interventions.

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<sup>121</sup> It was not possible to initiate methadone during imprisonment; it was possible to initiate buprenorphine during imprisonment upon the prescription made in one private psychiatric practice in Kumanovo.

<sup>122</sup> I.e. methadone 50mg.

<sup>123</sup> The request for psychiatric consultation had been referred to the competent judicial authority on 29 November 2019 and was granted on 2 December 2019.

<sup>124</sup> 20 of them were on buprenorphine.

<sup>125</sup> One of whom was on buprenorphine.

It is important that the prison authorities make efforts to provide an environment in which prisoners without drug related problems do not develop them. Further, any preventive measures must be accompanied by a genuinely multidisciplinary therapeutic programme to support prisoners with mental and behavioural disorders due to psychoactive substance use, and effective drug awareness training should be offered to prison staff, which would provide a basis for establishing constructive and supportive relationships with prisoners.

**The CPT reiterates its recommendation that the authorities of North Macedonia review the management of prisoners with substance-use disorders at Idrizovo Prison and, where appropriate, in other prisons in the light of the above remarks. Further, a methadone dispenser should be provided at Idrizovo Prison without further delay and harm reduction measures such as needle exchange should be implemented at all prison establishments nationwide (see paragraph 84).**

j. medical ethics

93. As mentioned in paragraph 77, a specific instruction was issued by the DES in 2013 on the duties and medical ethics of prison health-care staff. This remained an important and problematic topic at the time of the 2019 periodic visit and the delegation found that medical staff still did not have a clear understanding of certain ethical issues. Namely, the delegation found that prison health-care staff continued to issue “fit for punishment” certificates in respect of inmates set to serve terms of solitary confinement for disciplinary offences, despite the provision of the 2019 LES which relieved them of that obligation.<sup>126</sup> Further, prison health-care staff continued to perform urine tests on inmates upon the request of security staff.<sup>127</sup> Finally, the role of the psychiatric staff who ordered the prolonged fixation of remand prisoners in full view of other inmates without a proper and regular medical supervision posed serious concerns related to medical ethics (see paragraph 98).

**The CPT recommends that the authorities of North Macedonia make efforts to ensure that prison doctors’ clinical decisions are governed only by medical criteria and that the quality and effectiveness of their work is assessed by a qualified medical authority. In particular, steps should be taken to ensure that the specific provision of the LES relieving prison doctors of the obligation to issue “fit-for-punishment” certificates to inmates serving a solitary confinement measure should be immediately implemented at the national level. Finally, in the context of the training activities for health-care staff operating in prison referred to in paragraph 80, adequate emphasis should be given to the issue of medical ethics.**

k. deaths in prison

94. The CPT remains concerned that deaths in custody are not systematically the subject of a thorough investigation to ascertain, *inter alia*, the cause of death, the facts leading up to the death, including any contributing factors, and whether the death might have been prevented. Such inquiries are necessary in order to identify possible means to improve the system of prevention in place, as well as to provide the relatives of the deceased person(s) with relevant information concerning the circumstances of the death.

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<sup>126</sup> See Section 233 of the LES.

<sup>127</sup> The only change after the stewardship was that doctors sought a written request.



At Idrizovo Prison, three inmates died in the course of 2019. Autopsies were carried out by the Skopje Institute for Forensic Medicine but the prison was not always informed of the outcome and no steps were taken to investigate the cause of the deaths. By letter dated 2 April 2020, the Committee was informed that the Institute for Forensic Medicine was only mandated to inform the requesting party (i.e. the competent prosecutor) of the outcome of the autopsies and that efforts were underway to include the DES as a requesting party which would be informed of the outcome of any autopsy conducted in the future.

**The CPT reiterates its recommendation that the authorities of North Macedonia introduce a clear policy and comprehensive procedure on the identification of the causes of death of prisoners – including when the death occurs in (or on the way to) hospital – and clear criteria on the classification of deaths as suicides. In this context, the DES should also take proactive measures to become a requesting party for all autopsies undertaken in respect of prisoners by the Skopje Institute for Forensic Medicine, in line with the remarks above.**

**Further, the Committee recommends that the DES systematically share the content of any autopsy report with the relevant prison management, as well as with its health-care staff, in particular with a view to ascertaining whether there are lessons to be learned as regards operating procedures in respect of future similar episodes.**

## 7. Other issues

### a. discipline

95. In its periodic reporting to the Committee, the authorities of North Macedonia informed it that the disciplinary system had been reformed to comply with the CPT's previous recommendations.<sup>128</sup> In the course of the 2019 visit, the CPT's delegation could ascertain that the resort to disciplinary sanctions at Idrizovo Prison was not excessive and that all inmates received a written decision and were afforded the legal safeguards during disciplinary proceedings (including the right to appeal to the DES against a first-instance decision. Prison doctors visited inmates serving a sanction of solitary confinement on a daily basis. That said, prison doctors were still required to provide "fit-for-punishment" certificates to inmates serving a sanction of solitary confinement, contrary to the provisions of the new LES. In this regard, reference is made to the remarks and recommendation made in paragraph 93.

96. The conditions of detention of the two solitary confinement cells in use at Kumanovo and Štip Prisons respectively do not call for any particular comment.<sup>129</sup>

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<sup>128</sup> This consisted mainly in the following: 1) the maximum period of solitary confinement was reduced to 14 days; 2) prison doctors do not provide "fit-for-punishment" certificates for the serving of solitary confinement; 3) the appeal filed by an inmate against a first-instance disciplinary decision delays its execution; 4) the right to a lawyer is recognised for serious disciplinary offences and 5) the right to interpretation is afforded to foreign nationals in the course of disciplinary proceedings.

<sup>129</sup> The cells in question measuring 7m<sup>2</sup> at Kumanovo Prison and 6m<sup>2</sup> at Štip Prison were equipped with a fixed bed and a semi-partitioned sanitary annex and were in an acceptable state of repair and hygiene.

That said, the state of six solitary confinement cells at Idrizovo Prison remained extremely poor: the cells measuring 8m<sup>2</sup> and equipped with a bed fixed to the floor and a semi-partitioned sanitary annex were in a deplorable state of hygiene and dark, and there was no call-bell. Further, the cell in use for disciplinary purposes at the remand section of Ohrid Prison (see paragraph 116) offered inadequate conditions in terms of living space (i.e. 3.6 m<sup>2</sup> excluding the fully partitioned sanitary annex), with no direct access to natural light, dilapidated furniture (broken table) and unsatisfactory hygienic conditions (filthy mattress and dust). Finally, in their interviews with the delegation, inmates serving or having served a solitary confinement measure claimed that the one-hour entitlement of minimum daily outdoor exercise was in practice never complied with.

**The CPT recommends that the six cells in use for disciplinary purposes at Idrizovo Prison be refurbished and kept in a satisfactory state of hygiene. Further, the cell in use for the enforcement of solitary confinement at Ohrid Prison should be taken out of service. Finally, all prisoners serving solitary confinement should be provided with at least one hour of outdoor exercise on a daily basis.**

97. For remand prisoners the most common disciplinary sanction consisted of a deprivation of visits for a period of up to 30 days imposed by the competent judicial authorities. Such a measure was commonly imposed at the remand sections of Kumanovo, Ohrid and Skopje Prisons.

In the CPT's view, restrictions on family contact in the context of a disciplinary offence should be imposed only where the offence relates to such contact and should never amount to a total prohibition of contact. The importance of maintaining family contact cannot be overstated and the suspension of family visits should not be imposed as a general disciplinary sanction.

**The CPT recommends that the authorities of North Macedonia take the necessary steps, including at the legislative level, to ensure that the system of disciplinary sanctions for remand prisoners is revised, in the light of the above remarks.**

b. means of restraint

98. Section 56 of the LES lists the various means of restraint which may be applied by custodial staff in respect of sentenced and remand prisoners displaying challenging behaviour.<sup>130</sup> Further, in March 2017 in the context of the passing of the Strategy on Zero Tolerance on Ill-treatment, the DES had also adopted SOPs on the Use of Force in Prisons<sup>131</sup> (see also paragraph 35).

In the course of its 2019 periodic visit, the CPT's delegation was able to confirm that such forms were in use at the prison establishments visited and that, in principle, any resort to the use of means of restraint by prison staff was adequately recorded in a dedicated register.

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<sup>130</sup> These are separation, handcuffing, handling, rubber batons, water cannons, chemical means and trained dogs.

<sup>131</sup> The SOPs provide that any application of a means of restraint in respect of an inmate must be the object of a report (consisting of four standard forms) to be initiated by the custodial officer in question on the circumstances and the legality of the application which must be recorded and include a medical report, the statements of the inmate in question, witnesses and members of security staff. In case of physical injuries sustained, the report must be sent to the competent prosecutorial authorities and the Ministry of the Interior.

That said, the delegation was concerned by the recent resort to prolonged mechanical fixation in respect of two remand prisoners met at Skopje Prison who, after displaying agitated behaviour and self-harming, had been fixated with straps and handcuffs to a bed, for 17 and 12 days respectively, upon the recommendation of the visiting psychiatrist. The remand prisoners in question were restrained by four limbs to a bed in an ordinary cell with no CCTV in the presence of other inmates without adequate medical supervision.<sup>132</sup> The psychiatric treatment provided to them consisted of forced medication and sporadic contacts twice a week with the visiting psychiatrist who allegedly performed short visual checks from the entrance of the cells and posed brief questions on their state of mind in the presence of custodial staff. During their prolonged fixation they had been only been un-cuffed in order to eat and to access the sanitary annex. Further, the persons in question had been fixated in a cell occupied by other prisoners. The delegation requested the cessation of the practice of resort to the prolonged and unsupervised fixation of inmates in front of prisoners in ordinary cells of Skopje Prison and to alternatively resort to the transfer of such inmates to a health-care institution (i.e. a medical setting) which was approved by the senior management of Skopje Prison.

That such a practice could once again occur in a prison in North Macedonia after the repeated interventions by the CPT in 2006, 2007 and 2008 on this precise matter is clearly indicative of the lack of a coherent prison system operating under clear rules observed by professional staff. Such inhuman and degrading practices should be eradicated once and for all from North Macedonia's prisons.

99. The CPT recognises that in every prison system there are certain inmates who pose a serious danger to themselves and/or to others and in respect of whom it is necessary on occasion to resort to means of restraint in a prison setting. In the reports on its 2006, 2007 and 2008 visits to North Macedonia,<sup>133</sup> the CPT made several recommendations to the authorities concerning the fact that the resort to mechanical restraint in respect of inmates for episodes of over-agitation and self-harming must involve the use of appropriately designed restraint equipment which is properly applied by suitably trained staff. Further, the Committee recommended that resort to any such measure must be monitored and recorded in a dedicated register and must be carried out in such a way as to maintain the dignity and safety of the prisoner. In particular, the CPT stressed several times that resort to such restraint should not take place in the presence of other inmates and that there should always be continuous direct personal supervision by staff, with the measure lasting only until such time as the prisoner has calmed down (usually minutes rather than hours, and certainly never days).

That said, the above-mentioned findings indicate that the CPT's recommendations to the authorities of North Macedonia remain to a great extent unimplemented in practice. Consequently, **the CPT once again calls upon the authorities of North Macedonia to ensure that the above-mentioned precepts are fully implemented at Skopje Prison.**

**In the CPT's view, an agitated inmate who poses a serious danger to himself/herself or to others could be temporarily isolated in an appropriate cell until he/she regains behavioural control (only as a last resort when all other reasonable options (such as talking to the inmate in question) have failed to satisfactorily contain these risks. Further, the inmate concerned should be given the opportunity to discuss his/her experience, during and, in any event, as soon as possible after the end of a period of provisional isolation. This discussion should always involve a senior member of the health-care staff or another senior member of staff with appropriate training.**

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<sup>132</sup> Neither of the two prisoners was suffering from a mental disorder according to their medical files.

<sup>133</sup> See in particular paragraph 50 of the report on the 2006 visit, paragraph 29 of the report on the 2007 visit and paragraph 15 of the report on its 2008 visit.

c. contacts with the outside world

100. The relevant provision of the new LES (Section 197) has not modified the entitlements of visits for sentenced prisoners which remain limited to two visits per month in open conditions of one hour with close relatives. These entitlements were generally respected at the prison establishments visited in the existing visiting facilities which remained unchanged from previous visits. Further, a new indoor children's playground had been set up at Štip Prison thanks to funds provided by the United Nations Development Programme (UNDP). That said, at the same establishment, the prison director had recently introduced regulations restricting the number of visitors to first-degree relatives. This decision, which was causing much distress to inmates from the closed regime, was generalised and not dictated by specific security concerns but simply by the perception of the prison director that the number of visitors allowed per prisoner was too high. This arbitrary decision should be rescinded.

As for remand prisoners, the entitlements remained those provided for in the Rulebook on House Rules for Remand Detention<sup>134</sup> and consisted of two court-approved visits in closed conditions per month of a duration of 30 to 60 minutes. At Skopje Prison in particular, the same visit arrangements as described in its previous reports remained in place: the room was partitioned by a floor-to-ceiling platform partition and prisoners had to communicate shoulder to shoulder with visitors through holes pierced in the *plexiglas* screen which was not conducive to meaningful human contact. Further, children were still not allowed to meet their parents due to a ban from the judicial authorities<sup>135</sup> and this practice continued to cause additional stress for several remand prisoners of both sexes who had children, to say nothing of the potential effect on the children. The Director of Skopje Prison told the delegation that he was aware of this problem and was trying to alleviate it by personally intervening with the judicial authorities in order to allow at least telephone contact between incarcerated parents and their children.

**The CPT once again calls upon the authorities of North Macedonia to review the arrangements for visits in all prisons with a view to:**

- **increasing the amount of visiting time offered to both remand and sentenced prisoners, to at least one hour every week;**
- **ensuring that prisoners and their families can conduct visits with dignity and respect for privacy as far as possible (i.e. with appropriate seating arrangements and in an environment which enables communication without the need to raise voices); both remand and sentenced prisoners should be able to receive visits under reasonably open conditions.**

In addition, **the CPT reiterates its recommendation that the ban on children visiting their parent(s) at Skopje Prison be lifted. Further, the DES should reiterate to all prison directors and managers that any restrictions on persons visiting a prisoner must be in accordance with the relevant prison regulations and based on an individual risk assessment related directly to visits.**

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<sup>134</sup> Pending the adoption of the new Rulebook pursuant to the provisions of the new LES.

<sup>135</sup> The ban related to the fact that the prison accommodated persons under investigation for terrorist-related offences and there were indications that their respective organisations might attack the establishment at any time.

101. Access to a telephone for sentenced prisoners is in principle permitted via telephone receivers installed in detention areas of the establishments visited. This was the case at Kumanovo Prison, as well as in the open and semi-open detention units of Idrizovo Prison. That said, in the closed-regime departments of the main accommodation building of Idrizovo Prison, none of the telephone receivers were functioning at the time of the visit. Once again, the delegation found that this was accepted by most inmates as they had access to mobile phones which they used openly. At the end of the visit, the DES informed the delegation that the telephone receivers were not in use in the closed regime section of Idrizovo Prison as they were not equipped for the supervision of telephone calls. However, they admitted that the mobile phones being used by the prisoners were not supervised either.

Further, access to a telephone for remand prisoners was still restricted, requiring the permission of the investigative judge and taking place in a specific room where the calls were monitored by prison staff. The CPT has consistently stated that any decision to prohibit or impose restrictions on a given prisoner's access to a telephone should be based on a substantiated risk of collusion, intimidation or another illegal activity and be for a specified period. If there is a risk of collusion, particular telephone calls can always be monitored. However, the general principle should be to permit regular and frequent access to the telephone.

**The CPT recommends that the authorities of North Macedonia take the necessary steps, including of a legislative nature, to ensure that both remand and sentenced prisoners are granted regular and frequent access to the telephone.**

d. complaints procedures

102. Pursuant to Section 210 of the LES, the prison director is obliged to investigate a complaint lodged by a prisoner and notify him/her of the outcome within eight days of its receipt. The complainant can then forward his complaint to the DES who must investigate and notify the complainant within 15 days (Section 211 of the LES). The Committee welcomes the steps taken to introduce a two-tier complaints system in prisons in line with its previous recommendations. The same provisions also apply to juveniles.<sup>136</sup>

At the time of the 2019 periodic visit, such a system was formally in place and complaints were being adequately registered and investigated.<sup>137</sup> That said, numerous inmates, notably from the closed regime sections of Idrizovo and Stip Prisons, told the delegation that they had no trust in the confidentiality of the complaints system and were afraid of reprisals if they lodged a complaint. Further, most of the juveniles met at Ohrid Prison did not seem to be aware of such avenues of complaint due to their low literacy and the fact that the complaints procedure was not explained to them.

**The Committee recommends that all prisoners (including juveniles) be informed upon admission about how to lodge complaints in a manner that instils trust (for example, complaints boxes which may only be opened by certain persons).**

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<sup>136</sup> Pursuant to Section 155 of the LES.

<sup>137</sup> In the course of 2018, an OSCE funded programme had also contributed to the creation of a complaint form and the installation of complaints boxes in detention areas.

e. inspection procedures

103. In the past, the CPT has stressed the importance of the State Commission for the Execution of Sanctions<sup>138</sup> being established, as set out in the 2006 LES. In their first quarterly periodic report of 2018, the authorities of North Macedonia had informed the Committee that such a body would be created in the course of the implementation of the 2019 LES. That said, to date the State Commission has not been created nor is any mention made of it in the new LES.

On the other hand, Section 133 of the new LES makes reference to the internal inspection and supervisory powers of the Ministry of Justice (DES), as well as to the role played by judicial authorities in visiting prison establishments in inspecting the execution of sanctions, the treatment and conditions of detention of prisoners and their recording and reporting procedures (Sections 134 to 136). The CPT's delegation was able to observe that judges from the Basic Court of Skopje were paying visits to remand prisoners on a weekly basis. That said, judges limited themselves to opening the cell doors in the company of prison staff and cursorily asking whether everything was alright. In the register on the visits, not one issue had been noted by the judges which speaks volumes about the effectiveness of such visits.

In addition, prison establishments were visited regularly by the NPM (see paragraph 11), as well as by the Helsinki Committee, both of which have published their visit reports.

**The CPT recommends that the authorities of North Macedonia take the necessary steps to ensure that the State Commission envisaged by the Law on Execution of Sanctions is established and becomes operational without further delay.**

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<sup>138</sup> I.e. an independent State body of experts empowered to interview inmates in private which was supposed to be appointed by and reporting to the Parliament.

## C. Juvenile detention at Ohrid Prison

### 1. Preliminary remarks

104. In the course of the visit, the delegation assessed the treatment of juveniles accommodated at Ohrid Prison. Since September 2015, the prison has accommodated juveniles serving an educational-correctional measure in addition to juveniles who have been sentenced for a criminal offence to juvenile imprisonment.<sup>139</sup> The applicable legal framework consisted of the Law on Juvenile Justice, the new LES and the Rulebooks on the Enforcement of Educational and Correctional Measures.<sup>140</sup>

Ohrid Prison was accommodating eight juveniles serving a sentence of juvenile imprisonment and twelve juveniles serving an educational-correctional measure for a capacity of 35 places. The two groups of juveniles were accommodated on separate corridors and did not associate together at all.

The CPT notes with grave concern that the new “Tetovo Correctional Institution”, which had been completed in 2016 as a priority project under a Council of Europe Development Bank loan, has still not been inaugurated because certain permits from the Ministry of Environment and outstanding infrastructural issues have not been resolved.<sup>141</sup> Concerted action needs to be taken to avoid this project becoming a “white elephant”, especially in view of the poor conditions pertaining in other parts of the detention system.

**The CPT calls upon the Government of North Macedonia to take proactive steps to ensure that the newly-built Correctional Educational Institution in the Municipality of Brvenica is brought into service as soon as possible and that the above-mentioned infrastructural problems are successfully resolved.**

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<sup>139</sup> In 2009, pending the construction of a new “Tetovo Correctional Institution” in the vicinity of Tetovo, the institution was relocated to Veles and, subsequently, following the closure of Veles (which was requested, *inter alia*, by the CPT in its report on the 2014 periodic visit), juveniles sentenced to a correctional-educational measure were sent to Ohrid Prison in September 2015.

<sup>140</sup> The types of criminal sanction imposed on juveniles in North Macedonia pursuant to the 2013 Law on Juvenile Justice are the following: 1) placement of a child of at least 14 years of age (and a maximum of 23 years) in an educational correctional institution for a period of a minimum of one to a maximum of five years subject to an *ex officio* review every six months; 2) juvenile imprisonment which can be imposed on a juvenile of at least 16 years of age for a minimum of one year to a maximum of ten years which is served in a juvenile institution until the age of 21.

<sup>141</sup> By letter dated 15 June 2020, the DES informed the Committee that a relevant permit had not yet been issued by the Ministry of Environment in order to allow the establishment to be brought into service.

## 2. Ill-treatment

105. The eight juveniles serving a prison sentence told the delegation that they were treated correctly by staff. However, about half of the twelve juveniles serving an educational correctional measure alleged that they had been frequently subjected to physical ill-treatment by custodial officers. The allegations consisted mainly of slaps, punches and blows with rubber truncheons to various parts of the body, apparently as an informal punishment for fighting among themselves and breaching the house rules. The ill-treatment allegedly took place in the refectory or in their accommodation corridor. Particular reference was made to a non-standard black rubber truncheon of 80 cm in length known as “*bugarka*” which was used by the officers to inflict harder blows to the bodies of the juveniles who professed to being terrified by the mere threat of its use.

Further, one juvenile with a mental disorder<sup>142</sup> alleged that he was subjected to blows with a stick to his hands and back by custodial staff while he was standing naked in the course of being strip searched when he first entered the establishment. The young person perceived the beating as being linked to his state of mental health and as a welcoming rite.

Such behaviour is clearly criminal in nature as well as being unprofessional and potentially having long-lasting damaging effects on the young persons.

106. **The CPT recommends that the authorities of North Macedonia reinforce the oversight of the activities of the management and prisons officers at Ohrid Prison. Further, custodial staff should be reminded that:**

- **all forms of ill-treatment are unacceptable and will be punished accordingly. Young persons who misbehave should be dealt with only in accordance with the prescribed disciplinary procedures.**
- **no more force than is strictly necessary should be used to control violent and/or recalcitrant juveniles and that once the young persons have been brought under control, there can be no justification for them being struck. In this context, the authorities should ensure that all custodial officers are provided with training in the management of violent incidents, especially in verbal de-escalation to reduce tension and in the use of professional control and restraint techniques on juveniles.**

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<sup>142</sup> The juvenile in question had been diagnosed with adolescent onset-type conduct disorder (i.e. F 91.2).



107. The situation among the juveniles serving a prison sentence was calm at the time of the visit. However, up until October 2019, when he was transferred to Kumanovo Prison, one particular young person (i.e. late M.L.<sup>143</sup>) had apparently inflicted frequent psychological and physical violence on the other juveniles which was allegedly undetected by staff. For example, one of the juveniles told the delegation that he had been harassed and physically ill-treated by M.L. who had cut him with a blade on his shoulder and whipped him several times with an electric cable on his back because he refused to insult the prison officers as ordered. Some six weeks later, when examined by the delegation's doctor, he displayed the following injuries: on the left side of his neck, three tiny 4 cm-long pale grey scars, five scars on the left lower arm, 4 to 5 cm long, also greyish in colour, on the left side of the back, a trace of a hematoma, pale, 3 x 1 cm, and he felt pain on his back, on the parietal region, although there were no visible injuries. Apparently, the staff had not realised that one young person was bullying the other juveniles and none of the juveniles had considered that making a complaint to staff would help their situation. Further, the twelve juveniles subject to an educational and correctional measure told the delegation that brawls and fights were frequent among them and occasionally with the group of sentenced juveniles when they managed to jump over the physical metal fence separating the two groups of juveniles.

In the CPT's view, each prison should have in place a clear anti-bullying policy. To begin with, there is a need to put in place a cell-share risk assessment process together with a psychological review in respect of any juvenile admitted to Ohrid Prison. It is also essential that prison staff are alert to signs of trouble and are both resolved and properly trained to intervene. Such a capacity to intervene will of course depend, *inter alia*, on an adequate staff/prisoner ratio (see also paragraphs 45 to 47). Further, the staff need to take a proactive approach towards ensuring that prisoners, especially vulnerable prisoners, located in cells under their responsibility, are not abused or otherwise ill-treated by other prisoners.

**The CPT recommends that the authorities of North Macedonia take proactive steps to prevent inter-prisoner violence within the juvenile population at Ohrid Prison in light of the above remarks. Part of the strategy to combat inter-prisoner violence and bullying will have to include investing far more resources in recruiting additional staff and developing staff professionalism and training, as well as offering juveniles a purposeful regime with a special focus on education activities and decent conditions.**

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<sup>143</sup> The juvenile in question had been transferred in the course of October 2019 to Kumanovo Prison where he was found dead in a cell of the closed-regime section on 9 November 2019. An autopsy had been performed by the Skopje Institute of Forensic Medicine but had not been finalised at the time of the CPT's visit, pending the results of toxicological tests.

### 3. Conditions of detention

#### a. material conditions

108. The three cells accommodating juveniles serving a sentence of imprisonment had recently been renovated and offered adequate conditions. The cells were spacious,<sup>144</sup> were equipped with one or two sets of bunk beds, table and chairs, were adequately ventilated and enjoyed adequate access to natural light and a good state of repair and hygiene. That said, the separate sanitary facilities displayed signs of dilapidation, such as a damaged flush in the toilets, and there was no hot water.

On the other hand, the conditions in the three multiple-occupancy cells accommodating the twelve juveniles from the “Tetovo Correctional and Educational Institution” were poor and not appropriate for holding juveniles. The cells were in a poor state of repair (dilapidated furniture, crumbled walls) and hygiene and lacked personal lockable space. Further, their design was austere (no decoration) and carceral (thick metal bars placed in front of the windows) and they were not equipped with a TV, nor did they possess a call bell. Further, conditions were cramped in terms of occupancy levels.<sup>145</sup> The separate toilets and showers also showed signs of dilapidation (i.e. missing shower batteries, broken tiles and malfunctioning artificial lighting).

109. More generally, the CPT considers that a well-designed juvenile detention centre should provide positive and personalised conditions of detention for young persons, respecting their dignity and privacy. All rooms should be appropriately furnished and provide good access to natural light and adequate ventilation.

Juveniles should normally be accommodated in individual bedrooms; reasons should be provided explaining why it is in the best interests of the juvenile to share sleeping accommodation with another inmate. Juveniles should be consulted before being required to share sleeping accommodation and should be able to state with whom they would wish to be accommodated.

Every effort should be made to avoid placing juveniles in large dormitories as the CPT’s experience is that this puts juveniles at a significantly higher risk of violence and exploitation.

**The CPT recommends that the authorities of North Macedonia take the necessary steps to ensure that all juveniles are held in conditions that comply with the above precepts, notably at the new Educational-Correction Institution at Tetovo (see paragraph 104). Further, in the meantime, steps should be taken at Ohrid Prison to remedy the existing deficiencies in the three cells accommodating juveniles under an educational measure.**

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<sup>144</sup> For example, one cell measuring 20m<sup>2</sup> was accommodating three juveniles and one measuring 16m<sup>2</sup> was accommodating two juveniles.

<sup>145</sup> For example, two cells measuring approximately 25m<sup>2</sup> were accommodating five juveniles each.

b. regime

110. The regime on offer to the two separate categories of juveniles was identical: in principle, they were confined for most of the day in their cells with the exception of one and half hour of classes on the Macedonian language and mathematics provided by external teachers on weekdays, three individual sessions per week with educators travelling from Tetovo and two hours of outdoor exercise in one of the two courtyards where they could play basketball and football (for which the young persons had to purchase the balls). Further, an improvised gym (equipped with only some weights and an exercise bench) was accessible twice a week (a table-tennis set was damaged and not in use).

In addition, once a week for three hours a group psychological and educational programme on non-violent communication was provided by staff travelling from Tetovo. The CPT's delegation was also informed at the outset of the visit that the multi-year programme funded by the Dutch Government on the training of educational staff to provide adequate tools and vocational activities for the re-socialisation of juveniles had been stopped due the consistent delays in the opening of the new Tetovo Educational-Correctional Institution. This also meant that the work invested in categorising and classifying juveniles and drafting individualised treatment plans was a theoretical exercise as there were no activities.

**The CPT reiterates its recommendation that the authorities of North Macedonia take the necessary steps to ensure that all juveniles deprived of their liberty are offered a full programme of education, sport, vocational training, recreation and other purposeful and structured activities tailored to their individual needs and intended to fulfil the functions of personal and social development, rehabilitation and preparation for release, in light of the European Rules for juvenile offenders subject to sanctions or measures. Physical education should constitute an important part of that programme and in this respect immediate and urgent steps should be taken to provide balls for practising football and basketball, as well as to equip the gym with more exercise machines and repair the table-tennis set.**

#### 4. Health care

111. As mentioned in paragraph 79 above, one GP from the local PHCC was visiting the establishment twice a week and all juveniles were undergoing a medical examination upon admission, normally within 24 hours. The examination consisted of a short anamnesis with a visual check, and a questionnaire on TB was filled in. That said, there was no mandatory medical examination of juveniles re-admitted to the establishment after an escape/late arrival from leave. Further, there was no systematic screening test for transmissible diseases in place, nor assessment of any history of victimisation (including of a sexual nature) on juveniles and no review of their vaccination history. Finally, no registry of injuries was in place at the establishment (see paragraph 85) including in respect of juveniles.

**The CPT recommends that the authorities of North Macedonia take the necessary steps to ensure that someone competent to provide first aid and, once the new premises come into service at the Tetovo Educational and Correctional Institution, preferably someone with a recognised nursing qualification is always present at Ohrid Prison.**

Further, the Committee recommends that all newly-arrived inmates be given as soon as possible, and no later than 24 hours after their admission, a comprehensive medical examination by a health-care professional. Such a medical examination should identify young persons with potential health problems (e.g. drug dependency, suicidal tendencies) and the medical screening should include mandatory testing for transmissible diseases, as well as a detailed physical examination on injuries (including of a sexual nature) to be recorded in a dedicated register (see paragraph 85). Further, juveniles returned to Ohrid Prison after an escape or a transfer elsewhere should be medically screened and included in the national vaccination programme.

112. At the time of the visit one 16-year-old juvenile subject to an educational measure was suffering from hepatitis C and at that time had received no treatment for it. Further, his medical status was highlighted in red ink in files to which the custodial officers had access. **The CPT recommends that uniform availability of treatment for hepatitis C should be offered to all juveniles of Ohrid Prison. Further, information about a juvenile's transmissible disease should in principle only be available to health-care staff; it should be for those staff to decide whether - and to what extent - the information needs to be shared with non-medical staff.**

113. Due to the absence of nursing staff in the establishment, medication was generally distributed by female members of the custodial staff (and male prison staff during the evening and weekend shifts). The medication was not prepared in advance and was extracted directly from the original boxes by custodial staff. This represented a cause of concern, also in the light of the fact that all juveniles were prescribed anti-psychotic medication.

**The CPT recommends that a specially trained nurse be recruited at Ohrid Prison, as referred to in paragraph 80, who would be tasked with the distribution of medication to juveniles, as well as the preparation of medication to be distributed to inmates on weekends. In the meantime, the CPT trusts that steps will be taken at Ohrid Prison to ensure that individual medicine doses are prepared exclusively by a health-care professional and that their distribution respects the precepts of medical confidentiality. Further, any individual medicine box should be marked in such a way as to allow an absolutely reliable identification of the patient concerned.**

114. In terms of mental health care, all newly admitted juveniles were referred to the local PHCC for a psychiatric examination. At the time of the visit, 18 of the 20 juveniles had been diagnosed with a mental disorder (e.g. anxiety and depressive disorder and unsocialised and socialised conduct disorders) for which they had all been prescribed various psychiatric medications by the PHCC psychiatrist. A review of their medical files revealed that the prescriptions were not subject to periodic review, as the GP considered it was not his responsibility. Further, with the exception of the weekly sessions of the group psychological and educational programme on non-violent communication skills (see paragraph 110) there was no psychological input offered to juveniles focussed on the prevention of reoffending.

**The recommendation put forward in paragraph 90 on the mandatory review of all prisoners diagnosed with a mental disorder at the national level should equally apply to the juvenile accommodated at Ohrid Prison.**

**Further, a careful and periodic review of their prescribed psychiatric medication should be carried out by the competent PHCC. Finally, steps should be taken by the PHCC to assign a dedicated clinical psychologist tasked to provide psychological input.**

## **5. Other issues**

### **a. staff**

115. The dedicated complement of custodial staff was described in paragraph 49 and consisted of 18 prison guards working on two shifts of six members and two full-time treatment staff. In addition, the dedicated treatment staff (i.e. one psychologist and two educators) in charge of the rehabilitation of children subject to an educational and correctional measure continued to travel from Tetovo three times a week and was present at the establishment for a total of four hours each day. Treatment and security staff had received targeted training on working with juveniles in the context of the above-mentioned project funded by the Dutch Helsinki Committee which had been interrupted due to the persistent delays to the opening of the new Tetovo Educational and Correctional Institution.

In the view of the CPT, the custody and care of juveniles deprived of their liberty is a particularly challenging task. The staff called upon to fulfil that task should be carefully selected for their personal maturity and ability to cope with the challenges of working with - and safeguarding the welfare of - this age group. More particularly they should be committed to working with young people and be capable of guiding and motivating the juveniles in their charge. All such staff, including those with purely custodial duties, should receive professional training, both during induction and on an ongoing basis, and benefit from appropriate external support and supervision in the exercise of their duties.

**In the light of the above remarks, the CPT recommends that the authorities of North Macedonia put in place measures to extend the initial and on-going training of custodial staff working in the facilities accommodating juveniles (i.e. Ohrid Prison and the future Tetovo Correctional Educational Institution), as well as adequate psychological support and remuneration to reflect the challenging nature of the role of a custodial officer.**

### **b. discipline**

116. As mentioned in paragraph 95, the new LES amended the provision of solitary confinement for disciplinary purposes in respect of a juvenile for a maximum of seven days and replaced it with the placement in a special room for juveniles for a maximum period of seven days. In practice, through the consultation of registers and interview with juveniles, the CPT's delegation found that the serving of solitary confinement still consisted of a placement of a juvenile in the small cell in the remand section measuring 3.6m<sup>2</sup> and equipped only with a bed and a sanitary annex and that outdoor exercise in the yard dedicated to remand prisoners apparently lasted only 15 minutes per day. This is unacceptable.

The CPT wishes to stress that any form of isolation may have an even more detrimental effect on the physical and/or mental well-being of juveniles. This is now also reflected in the new Rule 60.6.a of the European Prison Rules (as revised in 2020).<sup>146</sup>

**The CPT recommends that the authorities of North Macedonia abolish the disciplinary measure of solitary confinement in respect of juveniles and that, pending its abolition in law, a circular be issued by the DES instructing prisons to no longer apply the measure for solitary confinement to juveniles as a disciplinary punishment. In addition, given its small size, the disciplinary cell at Ohrid Prison should be taken out of service.**

c. security and segregation measures

117. Section 14, paragraph 5, of the Rulebook on House Rules for the Execution of an Education and Correctional Measure provides for the placement of a juvenile in an enforced educational department (OZPV) in the event of inadaptability to the ordinary regime.<sup>147</sup> The placement is decided upon by the director of the establishment and may last from 30 to 90 days during which the juvenile concerned is subject to a more intensive follow-up by educational staff. The measure can be terminated only by the director upon the proposal of the multidisciplinary team. At the time of the 2019 visit, two juveniles were being held under this measure in a cell located with even poorer material conditions than the other two cells. These two juveniles were separated from the other young persons and, besides one hour of daily access to outdoor exercise, they were confined to their cell with nothing to do. A review of their personal files indicated that they had frequent contacts with the visiting treatment staff and psychologist and their individual treatment plans were duly filled in. That said, the remarks inserted in the individual treatment plans were generic and did not include a specific timeline and benchmarks for their re-integration into the ordinary regime.

The CPT recognises that it may be necessary to segregate juvenile prisoners for security or safety reasons (for instance, to protect highly vulnerable juveniles or deal with juveniles who pose a threat to others). However, measures of this kind should only be ordered in very exceptional circumstances and for as short a time as possible. Moreover, a number of safeguards should apply in such cases. In particular, a written decision which is subject to appeal should be issued and delivered to the juvenile concerned. Further, the Committee considers that a revised individual treatment plan would be drawn up together with the juvenile's placement in a OZPV, setting out the objectives and goals to be achieved in order to successfully reintegrate him/her into the general prison population.

**The Committee recommends that the authorities of North Macedonia review the relevant provisions surrounding the placement of a juvenile in an enforced educational department (OZPV) in the light of the above-mentioned remarks.**

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<sup>146</sup> Rule 60.6.a reads as follows: "Solitary confinement, that is the confinement of a prisoner for more than 22 hours a day without meaningful human contact, shall never be imposed on children, pregnant women, breastfeeding mothers or parents with infants in prison."

<sup>147</sup> Such as e.g. several and repeated disciplinary offences, drug and alcohol dependency, escapes and breach of public order.

d. contacts with the outside world

118. Juveniles accommodated at Ohrid Prison were entitled to four visits of one hour per month with their families in the dedicated room at the entrance of the establishment. However, less than 30 percent of them availed themselves of this possibility due to the poor financial and social status of families, and in several cases, their lack of interest in staying in contact with the juveniles. Pursuant to Section 25 of the House Rules, juveniles of both categories could, upon the approval of the director, obtain up to two permissions to leave the establishment for a visit to town of a few hours per month, as well as leave of up to 20 days per year (depending on the classifications and conditions). Such provisions were being proactively applied by the prison management of Ohrid Prison in respect of those juveniles who were not receiving regular visits from their families due to the above-mentioned reasons.

## **D. Psychiatric establishments**

### **1. Preliminary remarks**

119. The delegation carried out follow-up visits to the psychiatric hospitals in Demir Hisar and Negorci.<sup>148</sup>

*Demir Hisar Psychiatric Hospital* comprised nine inpatient wards with an official capacity of 329 beds and an outpatient service (for 141 patients with substance-use disorder) on its main premises, as well as two detached outpatient services, namely a day hospital (for 115 patients) in Demir Hisar and a community mental health centre (for six patients) in Prilep. At the time of the visit, the hospital was accommodating a total of 285 inpatients (167 male and 118 female), including 88 acute patients, 85 chronic patients, 70 geriatric patients, 14 alcohol-dependent patients and 38 forensic patients. As far as the delegation could ascertain, at least four patients were formally subject to an involuntary placement order of a civil nature.

*Negorci Psychiatric Hospital* had an official capacity of 230 beds and was accommodating a total of 209 inpatients at the time of the visit. Only one patient was subject to an involuntary placement order of a civil nature. In addition, 56 forensic patients and four prisoners with a mental disorder were being held in the hospital on an involuntary basis.

120. The legal framework governing the involuntary hospitalisation of civil and forensic psychiatric patients remains by and large unchanged since the 2014 visit.

The legal grounds for involuntary placement of a civil nature are set out in Section 16 of the Law on Mental Health (LMH) which stipulates that a person with a mental illness may be admitted to a hospital in cases where any delay of care, treatment or rehabilitation, or of admission, could, due to his/her current state of mental health, lead to death or irreparable damage to his/her health, to serious self-injury or injury to other persons or to the infliction of serious material damage.

The placement procedure is regulated by Sections 58 to 68 of the Law on Non-Litigation Procedure (LNP) (for further details, see paragraph 149). Involuntary placement orders may be issued for renewable periods of up to one year at a time.<sup>149</sup>

121. As regards forensic psychiatry, persons with mental disorder who have committed a criminal act may be placed by a criminal court in a mental health hospital as a preventive measure (for an indefinite period of time) on account of their (diminished) criminal irresponsibility (Section 63, paragraph 1, of the Criminal Code<sup>150</sup>).

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<sup>148</sup> Demir Hisar Psychiatric Hospital had previously been visited by the CPT in 1998, 2006, 2010 and 2014 and Negorci Psychiatric Hospital in 2010.

<sup>149</sup> See Section 67 of the LNP.

<sup>150</sup> Section 63, paragraph 1, reads as follows: "The court shall impose a compulsory psychiatric treatment and custody in a health institution on the offender who committed a crime in a state of mental incompetence or a significantly decreased mental competence, if it determines that due such state the offender may commit a crime again and that for the removal of this danger it is necessary to treat him and place him under custody in such an institution." See also Sections 243 to 250 of the LES.



In addition, offenders suffering from a substance-use disorder may be placed in psychiatric hospital for up to two years,<sup>151</sup> and persons who have committed an act of domestic violence whilst suffering from alcohol or drug dependence or a mental disorder may be placed by the criminal court in a psychiatric hospital for an (extendable) period of three months to one year.<sup>152</sup>

Further, persons suspected of having committed a criminal act may be placed by a criminal court in a mental health hospital for assessment for an initial period of one month, which may be extended to a maximum of two months (Section 248, paragraph 3, of the CPC).

122. As indicated above, in both hospitals visited, only a small number of civil patients were formally classified as “involuntary”. However, as was the case during previous visits, many of the so-called “voluntary” patients were prevented from leaving the hospital premises without being accompanied by a member of staff or family member and were thus de facto deprived of their liberty, without benefiting from the safeguards otherwise provided for by law for involuntary patients. It is also noteworthy that a number of them told the delegation that they did not wish to stay at the establishment (for further details, see paragraphs 146 to 148).

123. The CPT acknowledges the efforts continuously made by the relevant authorities to implement a comprehensive programme of de-institutionalisation of psychiatric patients by creating community mental health centres and other outpatient services on the basis of the National Mental Health Strategy 2018-2025.

That said, both at Demir Hisar and Negorci Psychiatric Hospitals, there were a significant number of patients suffering from a chronic mental disorder who were no longer in need of inpatient care, but, due to the lack of appropriate community-based structures, had been held in the hospital for many years.

**The CPT encourages the relevant authorities, and in particular the Ministry of Health and the Ministry of Labour and Social Policy, to strive to find suitable community-based care for the above-mentioned patients at Demir Hisar and Negorci Psychiatric Hospitals and, where appropriate, in other psychiatric establishments in the country.**

124. Demir Hisar Psychiatric Hospital comprised one adolescent ward (Ward 2) where juveniles as from the age of 16 could in principle be accommodated (as the only structure of this kind outside Skopje). The delegation was informed that no juveniles had been held in the hospital in recent times. Notwithstanding that, **the CPT wishes to stress that the above-mentioned ward does not provide suitable conditions for under-age patients and that it would be far preferable for juveniles to be accommodated in a facility which is specialised in child/adolescent psychiatry.**

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<sup>151</sup> Section 65, paragraphs 1 and 4, of the Criminal Code; see also Sections 254 to 260 of the LES.

<sup>152</sup> See Sections 35 and 39 of the **Law on Prevention, Combating and Protection against Domestic Violence**.

## 2. Ill-treatment

125. At Demir Hisar and Negorci Psychiatric Hospitals, the delegation received no allegations from patients about deliberate ill-treatment by staff. On the contrary, in both establishments, many patients interviewed by the delegation spoke positively about the manner in which they were treated by staff.

That said, the CPT must express its serious concern about the fact that, at Demir Hisar, several credible allegations were received from patients in different wards that they had been attached to a bed with metal chains and padlocks for several hours (and, on occasion, overnight). Such a practice is not acceptable and could easily be considered as inhuman and degrading treatment. In this regard, reference is made to the remarks and recommendations made in paragraphs 143 and 144.

126. In both hospitals, instances of inter-patient violence did occur occasionally, but staff appeared to intervene promptly and adequately in such cases.

## 3. Living conditions

127. Material conditions were generally good at Negorci Psychiatric Hospital, with the exception of Ward D (for chronic male patients) which was found to be in a poor state of repair and hygiene. The delegation was informed by the management that there were plans to refurbish Ward D in the course of 2020. **The CPT would like to receive updated information on the implementation of the aforementioned plan.**

Since the previous visit, a number of other wards had been refurbished and the entire hospital was very clean and generally in a good state of repair. The delegation gained a particularly positive impression of the recently opened Ward F (or acute psychiatric patients).

The sanitary facilities in the different wards were also on the whole adequate, with some of them requiring some minor repairs. There was a communal room on each ward which was equipped with a television set. Patient rooms were equipped with basic furniture as well as with lockers in which to store personal belongings. That said, many patient rooms were rather austere and depersonalised.

128. The CPT welcomes the fact that, at Demir Hisar Psychiatric Hospital, a new ward (Ward 4 for male geriatric patients) had recently been opened which offered very good living conditions overall. However, in several other wards at Demir Hisar, material conditions were very poor, and toilets and shower facilities in particular were totally dilapidated and in an appalling state of hygiene. For instance, in the forensic ward (Ward 10), the sanitary facilities were dilapidated, the walls being mouldy and some parts of the floor being covered with faeces; in addition, due to broken window panes the temperature in the shower area was only 11° Celsius at the time of the visit. Further, in many wards, accommodation areas and communal areas (including dining rooms) were very dirty, and in several of them there was a strong smell of urine. Another shortcoming lies in the fact that most patient rooms and communal areas were very austere with hardly any or no personalisation and that, in some wards (in particular Ward 7), patients were accommodated in rather cramped conditions (up to seven patients in a room measuring 27 m<sup>2</sup>). Moreover, in several wards (such as Wards 3 and 5) patients were wearing pyjamas throughout the day.

129. **The CPT recommends that the authorities of North Macedonia take steps as a matter of priority to prepare and implement a comprehensive renovation plan at Demir Hisar Psychiatric Hospital. Pending the implementation of the above-mentioned plan, the CPT urges the authorities to take urgent steps to improve the state of repair of sanitary facilities and to bring the level of hygiene in the entire hospital to a level which can be expected from a health-care institution.**

**Further, the CPT recommends that steps be taken at Demir Hisar and Negorci Psychiatric Hospital to ensure that patients:**

- **benefit from a more personalised environment (including with lockable space for personal belongings). To this end, they should be encouraged and supported to personalise their living space;**
- **are allowed and encouraged to wear their own clothes. If necessary, they should be supplied with appropriate non-uniform clothing.**

**Finally, the Committee invites the authorities of North Macedonia to take the necessary steps to ensure that at Demir Hisar Psychiatric Hospital and, where appropriate, in other psychiatric establishments, multiple-occupancy rooms accommodate no more than four patients.**

130. It is positive that, at Negorci Psychiatric Hospital, all patients (including in the forensic ward) were allowed to go outside into the open air every day. However, it is a matter of serious concern that, at Demir Hisar Psychiatric Hospital, many patients did not have such a possibility for weeks or even months on end.

During the end-of-visit talks, the delegation made an immediate observation and requested the Ministry of Health to take urgent action to ensure that all patients at Demir Hisar Psychiatric Hospital are effectively able to benefit from outdoor exercise every day. It is a matter of serious concern that the authorities of North Macedonia have so far failed to provide any information on the measures taken to remedy this unacceptable state of affairs.

**The CPT calls upon the authorities of North Macedonia to take steps without further delay to ensure that all patients at Demir Hisar Psychiatric Hospital are effectively able to benefit from outdoor exercise every day (with appropriate support and/or supervision if required). The aim should be to ensure that all patients benefit from unrestricted access to outdoor exercise during the day unless treatment activities require them to be present on the ward.**

#### 4. Staff

131. At Demir Hisar Psychiatric Hospital, the health-care staff comprised a total of six psychiatrists who actually worked in the hospital and six doctors who were following a specialisation programme in Skopje. According to the management, three of the aforementioned doctors were due to return to the hospital in September 2020 and three would still be absent for several years. Moreover, the hospital employed one specialist in internal medicine, one general practitioner (who was due to retire in September 2020) and one dentist, as well as 17 nurses (including eight specialised in psychiatry and one dental nurse), 86 assistant nurses and 33 orderlies. At the time of the visit, three posts of psychiatrist, one post of general practitioner, three posts of nurse, eleven posts of nursing assistant and one post of orderly were vacant.

Further, the hospital employed seven psychologists, three educators/special pedagogues, seven social workers and two physiotherapists. At the time of the visit, two posts of psychologist, one post of educator, one post of social worker and three posts of physiotherapist were vacant.

Ward-based staff worked in two twelve-hour shifts. During the day shift (from 8 a.m. to 8 p.m.), three nurses and one orderly were usually present in wards accommodating around 40 patients, while, during the night shift (from 8 p.m. to 8 a.m.), there were usually only one nurse and one orderly for the same number of patients.

132. At Negorci Psychiatric Hospital, the staff consisted of six psychiatrists (including the Director and one doctor on extended sick leave) and two doctors undergoing specialist training (one of whom was planned to return to the hospital in two years and the other in five years), as well as 34 nurses and 28 orderlies. Shortly before the visit, the sole post of general practitioner had become vacant. In addition, one post of nurse and three posts of orderly were vacant at the time of the visit.

Further, the hospital employed two psychologists and three social workers. There were no posts for educator/special pedagogue or occupational therapist.

Psychiatrists usually worked from 7.45 a.m. to 2.45 p.m. For the rest of the day, there was usually only one psychiatrist on duty, together with five nurses and six orderlies in the entire hospital. Thus, during that time, nurses had to work in more than one ward, and in some wards accommodating up to 40 patients only one staff member was present at night on a permanent basis.

133. Due to prolonged vacancies, the number of psychiatrists was inadequate in both hospitals, bearing also in mind that psychiatrists also had to care for outpatients (with several dozen consultations per month). Further, the CPT must express serious concern about the extremely low number of ward-based staff (i.e. nurses, nursing assistants and orderlies) in both hospitals, which did not allow for safe care to be provided to the number of patients (in particular during night shifts). Moreover, it is regrettable that almost no specialist staff were employed at Negorci to provide patients with psycho-social activities (see, in this regard, also paragraphs 136 and 137).

134. The delegation was informed by the management of both hospitals that attracting qualified staff of virtually all categories to work in psychiatric establishments was a nationwide problem, as many of them found better remunerated work opportunities abroad.

Whilst acknowledging the aforementioned challenges, **the CPT urges the authorities of North Macedonia to re-double their efforts to improve the staffing situation at Demir Hisar and Negorci Psychiatric Hospitals. More specifically, steps should be taken to:**

- **increase the number of nurses, nursing assistants and orderlies at Demir Hisar and to significantly increase the number of nursing staff and orderlies at Negorci. In particular, the presence of ward-based staff during night shifts should be reinforced as a matter of priority in both hospitals;**
- **fill the vacant posts of psychiatrist and psychologist in both hospitals;**
- **ensure that a general practitioner is employed in both hospitals on a full-time basis;**
- **recruit/reinforce staff qualified to provide psycho-social rehabilitative activities, in particular psychologists, occupational therapists and educators in both hospitals. These categories of staff should be integrated, together with health-care staff, in multi-disciplinary teams providing treatment and care to patients (see also the recommendations made in paragraph 137).**

## **5. Treatment**

135. At Demir Hisar and Negorci Psychiatric Hospitals, every patient had a treatment plan, which was usually prepared shortly after admission by the treating psychiatrist in consultation with a psychologist and a social worker. Medical files consulted by the delegation contained protocols for the treatment of relevant disorders, including information about acute treatment, long-term treatment and non-pharmacological treatment.

As regards pharmacotherapy, a range of relevant medication (including newer-generation drugs) was available in both hospitals, and the dosages of psychotropic medication in use appeared to be generally appropriate.

That said, in both hospitals, treatment plans frequently did not contain clear goals and there was no regular review of the treatment programme (in the case of chronic patients, for many years).

136. The CPT acknowledges the efforts made by the management of Demir Hisar and Negorci Psychiatric Hospitals to provide patients with a range of therapeutic, rehabilitative and recreational activities. In both hospitals, individual therapy (in particular for patients with substance-use disorder) and group therapy (for some patients) was provided by psychologists. It is noteworthy that both hospitals comprised a psycho-social rehabilitation unit where various activities, such as occupational therapy, music therapy, bibliotherapy and sports, were organised. At Demir Hisar, there was also a small farm where patients could work. At Negorci, the rehabilitation unit was equipped with computers where patients could access the internet under supervision.

That said, from interviews with patients and staff as well as from the consultation of relevant documentation, it transpired that, in practice, the provision of psychological services and occupational therapy remained limited in both hospitals visited, and that the great majority of patients did not benefit from such services on a regular basis. Thus, their psychiatric treatment consisted mainly of pharmacotherapy. Many patients interviewed by the delegation complained about a lack of activities other than watching television on the ward. As regards outdoor exercise, reference is made to the remarks and recommendation made in paragraph 130.

**137. The CPT recommends that the authorities of North Macedonia take the necessary steps to ensure that, at Demir Hisar and Negorci Psychiatric Hospitals, as well as in all other psychiatric establishments:**

- **individual treatment plans are drawn up for all patients (taking into account the special needs of acute, long-term and forensic patients including, with respect to the latter, the need to reduce the risk of re-offending), comprising the goals of the treatment, the therapeutic means used and the staff members responsible. The treatment plans should also contain the outcome of a regular review of the patients' mental health condition and a review of their medication. Patients should be involved in the drafting and review of these plans and informed of their therapeutic progress;**
- **a multi-disciplinary approach to the treatment of patients is adopted and that various categories of clinical staff meet regularly in order to share information and discuss patients' needs and therapeutic progress;**
- **a range of therapeutic and psychosocial rehabilitative activities is provided to patients; to begin with, and as an absolute minimum, every patient should be offered the opportunity to participate in one organised activity every day and should be motivated by staff to participate.**

138. At Demir Hisar and Negorci Psychiatric Hospitals, a number of patients were prescribed clozapine (which can have as a side-effect a potentially lethal reduction of white blood cells (*granulocytopenia*) in the body. In this regard, it is a matter of serious concern that, at Demir Hisar, the patients concerned were subjected to blood tests only once every three to four months and that, at Negorci, no blood tests were usually performed in such cases.

**The CPT reiterates its recommendation that urgent steps be taken at Demir Hisar and Negorci Psychiatric Hospitals and, where appropriate, in other psychiatric establishments, to render frequent and regular blood tests mandatory whenever clozapine is used. Health-care staff should be made aware of the potentially lethal side effects of such treatment and the importance of carrying out regular blood tests.**

139. The CPT welcomes the fact that, at Demir Hisar Psychiatric Hospital, a number of forensic patients were granted weekend leave on a regular basis. In the CPT's view, such leave can be an important tool in preparing patients for living independently and returning to their families.

That said, at Negorci Psychiatric Hospital, the delegation was informed by the management that all doctors' requests for weekend leave of forensic patients were categorically denied by the competent court. **The CPT would like to receive the comments of the authorities of North Macedonia on this matter.**

## 6. Means of restraint

140. The CPT recalls that means of restraint should always be applied in accordance with the principles of legality, necessity, proportionality and accountability. In particular, all types of restraint and the criteria for their use should be regulated by law, and patients should only be restrained as a measure of last resort (*ultimo ratio*) to prevent imminent harm to themselves or others and restraints should always be used for the shortest possible time. Further, every psychiatric establishment should have a comprehensive, carefully developed policy on restraint.<sup>153</sup>

Due to the lack of specific legal provisions in the relevant mental health legislation, the use of means of restraint was only regulated in the form of an internal protocol at the hospital level. However, at both Demir Hisar and Negorci Psychiatric Hospitals, members of the health-care staff appeared to be unaware of the existence of such a protocol.

141. In both hospitals there were two seclusion rooms, equipped with two beds where violent/agitated patients could be subjected to mechanical restraint (usually in combination with chemical restraint). Seclusion rooms had two windows which looked into the adjacent offices of nurses and orderlies respectively. As regards the layout and design of the seclusion rooms at Negorci Psychiatric Hospital, see paragraph 145.

142. According to the existing restraint registers, mechanical restraint was used in both hospitals only infrequently<sup>154</sup> and usually for short periods (i.e. one to two hours). It is noteworthy that decisions on the use of means of restraint were always taken by a doctor.

143. That said, in both hospitals, a number of major shortcomings were observed by the delegation. In this regard, it is regrettable that most of the specific recommendations made by the Committee in the report on the 2014 visit had not been implemented in practice.

First and foremost, the CPT must express its serious concern about the fact that, at Demir Hisar, several credible allegations were received from patients in different wards that they had been attached to a bed with metal chains and padlocks for several hours (and, on occasion, overnight). Such a practice is not acceptable and could easily be considered as inhuman and degrading treatment.

Secondly, in both hospitals, there was still no permanent supervision of fixated patients by a member of staff – visual checks through a window are not sufficient.

Thirdly, it remained the case that patients were sometimes subjected to mechanical restraint in their own bed within view of other patients. At Negorci Hospital, seclusion rooms had a window with fully transparent glass looking out into the exercise yard from which secluded and/or fixated patients could be seen by other patients. Moreover, at Demir Hisar, the delegation received allegations that, on occasion, patients had been requested by staff to assist in applying means of mechanical restraint.

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<sup>153</sup> See the CPT's standards on means of restraint in psychiatric establishments as set out in document CPT/Inf (2017) 6 (available at <https://rm.coe.int/16807001c3>).

<sup>154</sup> At Demir Hisar Hospital, there had been a total of 16 cases since March 2019, and, at Negorci Hospital, there had been five cases in 2017, two cases in 2018, six cases in 2019 and not one single case in 2020.

Fourthly, while the resort of mechanical restraint was usually recorded in the ward's restraint register, instances of seclusion without simultaneous mechanical restraint were not recorded. Similarly, instances of chemical restraint were only recorded when they occurred in combination with mechanical restraint.

Fifthly, nurses had not received specific training on the use of means of restraint.

144. In the light of the above, **the CPT recommends that the authorities of North Macedonia take steps – including by issuing instructions by the Ministry of Health and providing training to relevant staff – to ensure that, at Demir Hisar and Negorci Psychiatric Hospitals, as well as in all other psychiatric establishments in the country:**

- **only professionally recognised restraint equipment (preferably, padded cloth straps) is used in order to minimise the risk of the patient sustaining injury and/or suffering pain;**
- **every patient who is subjected to mechanical restraint or seclusion benefits from continuous supervision by a qualified member of the health-care staff. In the case of mechanical restraint, the staff member should be permanently present in the room in order to maintain a therapeutic alliance with the patient and provide him/her with assistance. If patients are held in seclusion, the staff member may be outside the patient's room (or in an adjacent room with a connecting window), provided that the patient can fully see the staff member and the latter can continuously observe and hear the patient. A written running record should be kept by the supervising staff member and included in the patient's medical file;**
- **if, exceptionally, a patient is subjected to mechanical restraint or seclusion for more than a period of hours, the measure is reviewed by a doctor at short intervals;**
- **staff are not assisted by other patients when applying means of restraint to a patient and that patients are not subjected to means of mechanical restraint within view of other patients (unless the patient explicitly expresses a wish to remain in the company of a certain fellow patient);**
- **once means of restraint have been removed, a debriefing with the patient takes place.** For the patient, such a debriefing is an occasion to explain his/her emotions prior to the restraint, which may improve both the patient's own and the staff's understanding of his/her behaviour. For the health-care staff, this will provide an opportunity to explain the rationale behind the measure, and thus reduce the psychological stress of the experience as well as restore the therapeutic relationship;
- **all instances of restraint – including physical holding, seclusion and chemical restraint – are recorded in a dedicated restraint register. The entries in the register should include the time at which the measure began and ended, the circumstances of the case, the reasons for resorting to the measure, the name of the doctor who ordered or approved it, the time at which the patient had a debriefing, and an account of any injuries sustained by patients or staff.** The keeping of such a register will allow hospital management to monitor the extent of recourse to means of restraint and enable measures to be taken, where appropriate, to reduce their use.

Further, **the Committee recommends that all types of restraint and the criteria for their use in psychiatric hospitals be regulated by law.**



145. Finally, the CPT would like to express its concern about the layout and design of the two newly-renovated seclusion rooms in Ward F of Negorci Psychiatric Hospital which were not fit for purpose for a number of reasons. Although the walls were padded, they were equipped with a metal radiator with sharp edges as well as with furniture which could easily be broken up, made into weapons and with which the patient held in seclusion could injure him/herself or others. In addition, the rooms were not equipped with sanitary facilities, which rendered agitated patients' access to the toilet difficult if not impossible (see also paragraph 143).

**The CPT recommends that the shortcomings of the seclusion rooms at Negorci Psychiatric Hospital be remedied, in the light of the preceding remarks.**

## 7. Safeguards

### a. legal status of patients

146. As already mentioned in paragraph 122, only a few patients at Demir Hisar and Negorci Psychiatric Hospitals were formally classified as 'involuntary' (i.e. had been subjected to an involuntary placement procedure under the LNP). At the same time, most patients' wards were closed, and many patients who were formally classified as 'voluntary' were not allowed to leave the hospital on their own. They were generally only allowed to leave the hospital premises when accompanied by a member of staff or family member. A number of 'voluntary' patients affirmed to the delegation that they had objected to their placement after their admission and that they wished to leave the hospital. Consequently, many patients who had been classified as 'voluntary' were *de facto* deprived of their liberty, without benefiting from the safeguards provided for by law for involuntary patients.

Further, in both hospitals, the delegation came across a number of cases in which the written consent to placement (and treatment) was sought from patients who, due to their mental state, were manifestly not in a position to give a valid consent. Another shortcoming lies in the fact that consent forms regarding voluntary admission seen by the delegation did not contain information on the possibility for patients to subsequently withdraw their consent and that, in several cases, the voluntary admission form kept in the file did not contain a signature by the patient concerned.

147. Particular mention should also be made of the situation of legally incapacitated patients. At Demir Hisar and Negorci Psychiatric Hospitals, the delegation came across a number of patients who had been deprived of their legal capacity and were not in a position to give a valid consent. Nonetheless, upon admission, they had been requested to sign a voluntary admission form without any involvement of their court-appointed guardian. The delegation was informed that, when such patients were hospitalised with the consent of their court-appointed guardian, they were also considered 'voluntary'.

However, if the patients concerned expressed a wish to leave the hospital they were usually not allowed to do so. Thus, they were *de facto* deprived of their liberty without benefiting from appropriate safeguards.<sup>155</sup> According to the information gathered during the visit, there was no procedure to review the need for their placement in the hospital, nor any procedure which would allow them to request discharge from the establishment without the consent of their guardian.

**148. The CPT recommends that the authorities of North Macedonia take the necessary steps – including at the legislative level – to ensure that, at Demir Hisar and Negorci Psychiatric Hospitals, as well as in all other psychiatric establishments in the country:**

- **persons admitted to a psychiatric establishment are provided with full, clear and accurate information, including on their right to consent or not to consent to hospitalisation, and on the possibility to withdraw their consent subsequently and that their written consent is properly documented in their individual file;**
- **all patients who do not wish to (or who, following an evaluation of their mental state, are considered to be unable to) give valid consent to their hospitalisation are the subject of an assessment of the need to resort to an involuntary placement procedure;**
- **if the provision of inpatient care to a voluntary patient who wishes to leave the hospital is considered necessary, the civil involuntary placement procedure provided for by law is fully applied;**
- **the same procedure is fully applied to all legally incapacitated patients (whether or not they have a guardian) from whose conduct it is obvious that they are opposed to their placement.**

**Further, the Committee recommends that the management of Demir Hisar and Negorci Psychiatric Hospitals review the legal status of all patients who are classified as ‘voluntary’, in the light of the above remarks.**

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<sup>155</sup> The CPT notes in this context that the European Court of Human Rights has concluded in several cases concerning the placement in a closed establishment of a legally incapacitated person under guardianship from whose conduct it was obvious that he or she did not consent to his or her placement that he/she must be regarded as being “deprived of his or her liberty” within the meaning of Article 5, paragraph 1, of the European Convention on Human Rights, despite the approval of the guardian (see, for example, the Grand Chamber judgment in the case of *Stanev v. Bulgaria*, no. 36760/06, § 132, 17 January 2012, and *Červenka v. the Czech Republic*, no. 62507/12, §§ 103-104, 13 October 2016).

b. involuntary placement and review procedures

149. As regards involuntary placement of a civil nature in a psychiatric hospital, the relevant legal provisions of the LNP<sup>156</sup> stipulate that, within 48 hours of admission, a medical report shall be transmitted by the hospital to the competent court, which shall examine all relevant circumstances and hear the patient concerned “if possible and if it does not adversely affect his/her health” and take a decision on the involuntary placement within three days. Involuntary placement orders may be issued for renewable periods of up to one year at a time.

150. From the examination of numerous patients’ files at Demir Hisar and Negorci Psychiatric Hospitals, it transpired that, in both hospitals, a medical report was usually drawn up promptly on involuntary admissions by the hospital’s Collegium (composed of the Director and two psychiatrists) and transmitted to the competent court within 48 hours.

However, in both hospitals, several major shortcomings were found by the delegation.

At Negorci Psychiatric Hospital, the competent judge usually went to the hospital shortly after an involuntary admission for a hearing in the presence of the patient concerned and took a decision within 48 hours of admission. That said, at Demir Hisar Psychiatric Hospital, it became apparent that patients were usually not seen by the judge and, even worse, in a number of cases, that no decision had been taken by the court for weeks or even months.<sup>157</sup> Such a state of affairs is unacceptable, as it renders the whole system of judicial review of involuntary placements meaningless and the right of appeal against a placement order ineffective. The delegation was told by medical staff that it was not uncommon for patients to be discharged by the hospital while the court proceedings regarding the involuntary placement were still pending.<sup>158</sup>

Another ‘peculiarity’ of the judicial practice of the competent court (in Bitola) lies in the fact that, in a number of cases, involuntary placement orders were also issued in respect of patients who had manifestly been admitted to the hospital on a *voluntary* basis. The delegation was informed that, usually, an assistant judge (accompanied by a clerk) went to the hospital approximately once a month in order to review all recent admissions (sometimes up to twenty at a time) in the presence of two psychiatrists and a social worker, without seeing the patients concerned.

Further, it is matter of concern that, in both hospitals, court decisions, which contained relevant information on appeal procedures, were often not delivered in writing to the patients concerned, but placed in their individual file. The delegation was told by members of the health-care staff that patients would be informed orally of the court decision. However, a number of patients met by the delegation appeared to be unaware of the court decision on their hospitalisation, let alone of the possibility to challenge the latter before the appeal court.

**The CPT recommends that the authorities of North Macedonia take the necessary steps – through appropriate channels – to ensure that:**

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<sup>156</sup> Sections 58 to 68.

<sup>157</sup> In respect of several patients admitted to the hospital involuntarily in September or October 2019, no decision had been taken by the court by the time of the CPT’s visit.

<sup>158</sup> In one case, a patient’s involuntary placement (lasting from 18 July until 17 October 2019) was retroactively ‘validated’ by the court on 25 November 2019 when taking a decision on the re-admission (on 8 November 2019) of the same patient to the hospital.

- every patient who is admitted to a psychiatric hospital in North Macedonia on an involuntary basis is heard in person by the judge (preferably, on the premises of the hospital) before a decision on placement is taken;
- the patients concerned receive a copy of the court decision expeditiously and are informed, verbally and in writing, about the reasons for the decision and the avenues/deadlines for lodging an appeal. To this end, the patients concerned should be asked to sign a statement attesting that they have received the court decision;
- judges at Bitola Court are reminded of their duty to carry out involuntary placement procedures in full compliance with the relevant legislation.

Further, the Committee encourages the authorities of North Macedonia to provide specialised training on relevant mental health issues to judges who are dealing with involuntary placement/review procedures.

151. As regards forensic psychiatric patients declared not be (fully) criminally responsible, Section 63, paragraph 4, of the Criminal Code stipulates that the competent court shall review the need for placement in a health institution once a year.<sup>159</sup>

In this regard, it is noteworthy that both Demir Hisar and Negorci Psychiatric Hospitals transmitted to the competent court a medical report on the state of mental health of their forensic patients every six months. However, from interviews with patients and staff and the examination of numerous patients' files, it transpired that the above-mentioned legal provision remained by and large a dead letter, as the courts had not once reacted to any such reports or initiated a review procedure (in some cases, for a period of ten years or even longer).

**The CPT recommends that the authorities of North Macedonia take measures – through appropriate channels – to ensure strict compliance by the competent judges throughout the country with their obligations under Section 63, paragraph 4, of the Criminal Code.**

**Further, steps should be taken to ensure that forensic patients:**

- and/or their legal representatives are systematically informed in writing of the six-monthly report of the board of psychiatrists;
- have the effective right to be heard in person by the judge in the review proceedings;
- receive a copy of any court decision on the review of the forensic psychiatric placement. The patients concerned should be asked to sign a statement attesting that they have received the court decision.

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<sup>159</sup> According to Section 246, paragraph 1, of the LES, the hospital must submit a report to the court at least once a year about the state of health of the patient concerned. Further, Section 248, paragraph 2, of the LES stipulates that the legality of the execution of forensic placements shall be supervised by the judge for the execution of sanctions.

Moreover, **the CPT considers that commissioning, at reasonable intervals, in the context of the review of the forensic psychiatric placement, a psychiatric expert opinion which is independent of the hospital in which the patient is held would offer an additional, important safeguard. This is of all the more relevance in respect of patients who have already spent lengthy periods of time in that hospital.**

c. consent to treatment

152. According to Section 20, paragraph 7, of the LMH, medical interventions without the consent of a person with a mental illness (or his/her legal representative) are prohibited, except in cases when such interventions are indispensable to prevent death or a deterioration in the state of health of the person with a mental disease.

In this regard, the CPT notes with concern that the relevant mental health legislation does not provide for any procedure on involuntary treatment of psychiatric patients.

153. The information gathered during the visit suggests that, at both Demir Hisar and Negorci Psychiatric Hospitals, it often remained the case that, in practice, no distinction was made between the involuntary placement and involuntary treatment of a patient. Several medical staff met by the delegation expressed the view that patients hospitalised against their will were not able to refuse any treatment on account of their illness. Indeed, court decisions to place civil and/or forensic patients “for treatment” in a psychiatric hospital were regarded by doctors as blanket authorisation to administer medical treatment without the consent of the patients concerned.

Further, although voluntary admission forms contained a pre-printed statement that the patient concerned had been informed of the proposed treatment and its potential side effects, many patients interviewed by the delegation claimed that they had received hardly any or no such information at all. Thus, the consent given at the moment of admission could not be considered to be an ‘informed consent’. Moreover, there appeared to be a widespread perception among patients that they had no choice other than to accept any treatment proposed by medical staff.

154. The CPT wishes to stress once again that, as a general principle, all categories of psychiatric patient, i.e. voluntary or involuntary, civil or forensic, with legal capacity or legally incapacitated, should be placed in a position to give their free and informed consent to treatment.<sup>160</sup> It is axiomatic that consent to treatment can only be qualified as free and informed if it is based on full, accurate and comprehensible information about the patient’s condition and the treatment which is proposed and its possible side effects, as well as about the possibility to withdraw the consent. Further, it is essential that all patients who have given their consent to treatment are kept continuously informed about their condition and the treatment applied to them and that they are placed in a position to withdraw their consent at any time.

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<sup>160</sup> I.e., the admission of a person to a psychiatric establishment on an involuntary basis, be it in the context of civil or criminal proceedings, should not preclude seeking informed consent to treatment.

In addition, every patient capable of discernment should be entitled to refuse a particular treatment or any other medical intervention. Any derogation from this fundamental principle should be based upon law and only relate to clearly and strictly defined exceptional circumstances and should be accompanied by appropriate safeguards.

The relevant legislation should require a second psychiatric opinion (i.e. from a psychiatrist not involved in the treatment of the patient concerned) in any case where a patient does not agree with the treatment proposed by the treating doctor (even if his/her guardian consents to the treatment); further, patients should be able to challenge a compulsory treatment decision before an independent outside authority and should be informed in writing of this right.

**The CPT reiterates its recommendation that the authorities of North Macedonia take the necessary steps to ensure that the relevant legislation and practice at Demir Hisar and Negorci Psychiatric Hospitals, as well as in all other psychiatric establishments in the country, are brought in line with the above-mentioned precepts.**

## **8. Other issues**

155. The arrangements concerning patients' contact with the outside world were satisfactory at Demir Hisar and Negorci Psychiatric Hospitals; there was virtually no limit on the possibility to receive visits and patients were usually allowed to keep their own mobile phone or were regularly given the opportunity to use a hospital mobile phone.

156. At Demir Hisar Psychiatric Hospital, a total of eleven security staff were deployed to the hospital by a private security company to ensure external security and to intervene inside during incidents inside the hospital whenever requested by hospital staff to do so. They worked on rotation in twelve-hour shifts in an office next to the main entrance of the hospital compound (with three staff, including one female, being present during the day and two at night). Their standard equipment comprised a baton, metal handcuffs and a pepper spray canister. According to security staff interviewed by the delegation, they had received general security training for four weeks (two weeks of theory and two weeks of practice).

Regrettably, the delegation was not in a position to obtain a comprehensive picture regarding interventions by security staff, since no relevant documentation could be provided by the hospital management and the owner of the private security company vehemently refused access to the activity logbook of his staff. That said, it became clear from conversations with hospital staff and members of the security staff that the latter had on a number of occasions been called upon to assist health-care staff in restraining violent patients inside wards and that it was not uncommon for them to handcuff newly-admitted patients after the handover from the police and to be present during the medical examination upon admission. In the CPT's view, such practices are not acceptable. Further, although pepper spray had reportedly thus far not been used by security staff, the CPT has serious misgivings about the potential use of such a weapon vis-à-vis psychiatric patients (including in confined spaces).

The CPT recommends that steps be taken at Demir Hisar Psychiatric Hospital and, where appropriate, in other psychiatric establishments in the country, to ensure that:

- means of restraint are always applied to psychiatric patients by adequately trained health-care staff and that security staff only intervene in exceptional cases where health-care staff are not able to control the situation themselves (e.g. in the case of particularly violent and/or agitated patients) and solely at the express request and upon the instructions of the latter;
- a record is kept by the hospital management of any intervention of security staff inside wards;
- (newly-admitted) patients are not handcuffed and that private security staff are not present during medical examinations;
- private security staff are no longer equipped with pepper spray.

157. At Demir Hisar and Negorci Psychiatric Hospitals, a significant number of patients had died in recent years.<sup>161</sup> The delegation was informed by the management of both hospitals that the death of a patient was established by the treating doctor or doctor on duty and that all deaths of patients were reviewed by the hospital's Quality Committee (composed of three psychiatrists and the head nurse) as well as by the hospital's Medical Commission ("Collegium", composed of the Director, a psychiatrist and a general practitioner/specialist in internal medicine), usually some time after the funeral of the patient concerned, and that reports drawn up by the two committees were then always communicated to the Ministry of Health.

The CPT notes with concern that, according to the management of Demir Hisar and Negorci Psychiatric Hospitals, not one single autopsy has been performed in any of cases of death that have occurred in either hospital since 2017, which also appears to be contrary to the relevant legislation.<sup>162</sup>

In both hospitals, the delegation scrutinised the medical files of all patients who had died in 2019 (as well as of some who had died in 2018). In the vast majority of these cases, the death certificate simply referred to "myocardial infarction" or "cardiorespiratory insufficiency" without any further explanations regarding pre-existing somatic health conditions, including when patients had had visible injuries or had died at a young age (the youngest was 40 years old).<sup>163</sup>

**The CPT calls upon the authorities of North Macedonia to take the necessary steps to ensure that, whenever a patient dies in a psychiatric hospital, an autopsy is carried out, unless a clear diagnosis of a fatal disease has been established prior to death. In order to prevent any potential conflict of interest, this assessment should be performed by a medical authority that is independent of the hospital.**

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<sup>161</sup> At Demir Hisar, 19 patients died in 2017, 24 in 2018 and ten in 2019 (January-November), and, at Negorci, ten patients died in 2017, nine in 2018 and eleven in 2019 (January-November)

<sup>162</sup> Section 275, paragraph 3, of the Law on Health Protection stipulates that "the body of the person who died in a health-care institution shall undergo a pathological autopsy".

<sup>163</sup> For instance, at Demir Hisar Psychiatric Hospital, one female patient (N.T.) died on 18 May 2018. According to her medical file, she had sustained injuries to her face and head on 9 May, due to a fall, and a CT scan had been performed on 14 May. No reference was made to any injuries in the reports of either the Quality Commission or the Medical Committee. Another patient (M.R.) died on 29 November 2019 during breakfast, two days after his admission to Demir Hisar. The medical file contained no information on any pre-existing conditions. Further, at Negorci Psychiatric Hospital, one 70-year old patient (L.C.) died one day after she had returned from surgery on a broken femur. The cause of death was recorded as "myocardial infarction" without any further explanations.

158. Upon admission, patients were verbally informed of the hospital rules and some information on the rights of patients was available on notice boards on the wards. However, as far as the delegation could ascertain, no information was provided to the patients in writing.

**The CPT recommends that steps be taken at Demir Hisar and Negorci Psychiatric Hospitals, as well as in all other psychiatric establishments, to ensure that a brochure/information sheet setting out the hospital's rules and patients' rights is systematically provided to newly-admitted patients (and their families/guardians) and that patients unable to understand the brochure/information sheet receive appropriate assistance.**

159. At Demir Hisar and Negorci Psychiatric Hospitals, boxes for complaints to the management were installed on all wards. Further, patients could lodge complaints to the Ministry of Health and the State Sanitary and Health Inspectorate (SSHI) as well as to the Ombudsman.

However, in both hospitals, a number of patients interviewed by the delegation appeared to be generally unaware of the existing avenues of complaint. An effective complaints procedure is a basic safeguard against ill-treatment. To this end, **the CPT reiterates its recommendation that steps be taken in all psychiatric hospitals to ensure that patients are systematically informed of existing avenues to lodge complaints (including in the above-mentioned brochure/information sheet).**

160. As regards inspections and external monitoring, Demir Hisar and Negorci Psychiatric Hospitals were regularly visited by the SSHI as well as by the Ombudsman/NPM.

That said, it is regrettable that, despite the assurances given by the authorities of North Macedonia in their response to the report on the 2014 visit, no local commission for mental health had been (re-)established in Demir Hisar and Negorci.<sup>164</sup>

**The CPT recommends that the relevant authorities take the necessary steps to remedy this shortcoming without further delay.**

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<sup>164</sup> According to Sections 34 to 37 of the LMH, every municipality on whose territory a psychiatric hospital is located shall establish a commission for mental health (composed of a psychiatrist, a psychologist, a lawyer and a representative of the municipality, none of whom employed by the psychiatric hospital). Members of the commission shall monitor the situation of patients, review complaints, formulate recommendations to improve the living conditions and care of patients and submit reports on its activities to the City Council and the Ministry of Health.



## **E. Social welfare establishments**

### **1. Preliminary remarks**

161. The delegation carried out a follow-up visit to the Special Institution for Mentally Disabled Persons in Demir Kapija ('Special Institution') in order to examine the measures taken by the relevant authorities after the last visit to the establishment in 2014.<sup>165</sup> In addition, it paid a brief visit to one of the recently-opened "Housing Units" in Demir Kapija which are affiliated to the Institution.

162. The layout and structure of the premises of Kapija Special Institution were already described in the report on the 2014 visit.<sup>166</sup> In recent years, a total of five Housing Units have been opened (two in Skopje and three in the Demir Kapija area) which are directly administered by the Special Institution. Each Housing Unit comprised a three- to five-bed apartment with a communal room. At the time of the 2019 visit, the Institution had an official capacity of 230 beds and was holding a total of 189 residents (primarily persons with severe learning disabilities and/or schizophrenia), of whom 19 were being accommodated in a Housing Unit.

163. The CPT would like to express its appreciation for the measures taken by the Ministry of Labour and Social Policy and other relevant social welfare authorities to progressively implement a national plan on de-institutionalisation of residents in social welfare institutions. In July 2017, the Government decided to close down all large social welfare institutions, and the Minister of Labour and Social Policy issued an instruction to the management of Demir Kapija Special Institution to no longer admit new residents. Further, a policy decision was taken to progressively transfer as a matter of priority residents below the age of 26 to a Housing Unit. At the time of the visit, eleven residents were on a waiting list until additional budgetary resources became available.

At the outset, the CPT wishes to stress that its delegation gained a positive impression of the Housing Unit visited in Demir Kapija.

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

164. The CPT is pleased to note that no allegations of ill-treatment were received from patients interviewed at the Special Institution at Demir Kapija. On the contrary, the delegation could observe for itself the commitment and caring attitude of staff.

165. Instances of violence between residents did occur occasionally but staff appeared to intervene promptly and adequately in such cases. In this regard, the situation seems to have significantly improved since the 2014 visit.

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<sup>165</sup> The Special Institution had previously been visited by the CPT in 2002, 2006 and 2010.

<sup>166</sup> See paragraph 169 of the report on the 2014 visit.

### **3. Living conditions**

166. The CPT welcomes the fact that extensive renovation works had recently started in different parts of Demir Kapija Special Institution which were in a poor state of repair. It is also positive that bedrooms and communal areas were very clean.

That said, the Committee is very concerned about the living conditions of residents from Wards C3 and C4 who had the most severe intellectual disabilities. The toilets and shower facilities in their wards were totally dilapidated and in an appalling state of hygiene. Further, due to the temporary closure of certain wards, residents were being held in very cramped conditions in other wards. A major structural shortcoming lies in the fact that the Institution had no elevators, despite the fact that many residents had reduced mobility or were bedridden.

167. As regards outdoor exercise, the delegation observed that the more autonomous and mobile residents could move freely on the premises of the Institution. However, this was not the case with residents from Wards C3 and C4 or from several other wards. They had not been able to go out into the open air for months. Such a state of affairs is not acceptable.

168. During the end-of-visit talks, the delegation made an immediate observation and requested the relevant authorities to take urgent action to ensure that (a) residents from Wards C3 and C4 have access to functional sanitary facilities and that these facilities are kept in an acceptable state of hygiene and (b) that all residents are able to benefit from outdoor exercise every day.

It is a matter of serious concern that the relevant authorities have failed to provide a response to this immediate observation.

**169. The CPT calls upon the authorities of North Macedonia to take steps at Demir Kapija Special Institution without further delay to ensure that:**

- **residents from Wards C3 and C4 have access to functional sanitary facilities and that these facilities are kept in an acceptable state of hygiene;**
- **all residents are able to benefit from outdoor exercise every day (with appropriate support and/or supervision if required).**

**Further, the Committee would like to receive detailed information on the progress made in renovating the entire premises of Demir Kapija Special Institution.**

#### **4. Staff and care provided to residents**

170. The number of nursing staff remained generally adequate (17 full-time posts as compared to 18 in 2014). Outside normal working hours, there were always two nurses and one of the two head nurses present. In addition, the Institution employed five special educators (including two who worked for the Housing Units), three educators and two instructors, as well as four physiotherapists (including two who worked for the Housing Units) and one social worker. There was also one psychologist who worked primarily for the Housing Units.

That said, as regards orderlies, the situation had further deteriorated since the 2014 visit. This seems to be a direct consequence of the deployment of staff to the newly-created Housing Units. Thus, only 40 orderlies worked on the main premises. It is a matter of particular concern that residents from Wards C3 and C4 (22 in total) were cared for and supervised by only one orderly (during both day and night shifts).

**The CPT once again calls upon the authorities of North Macedonia to take urgent steps to reinforce the staffing levels of orderlies at Demir Kapija Special Institution and, in particular, in Wards C3 and C4.**

**Further, steps should be taken to increase the number of psychologists.**

171. As in 2014, Demir Kapija Special Institution did not employ a doctor. Whilst acknowledging that a psychiatrist visited the Institution once a week and that the part-time presence of a general practitioner had been increased from one to two half-days per week, the CPT must stress again that such a presence of a general practitioner remains insufficient, given the size of the Institution and the profile of residents, many of whom are suffering from severe physical impairments and illnesses.<sup>167</sup>

The CPT welcomes the fact that annual health check-ups were arranged by nurses for all residents, which included a basic blood test, an electrocardiogram, a fluorogram and an X-ray (provided by a mobile medical team) as well as a vaccination against the flu (upon consultation of the doctor). In addition, female residents benefited from a medical check-up by a gynaecologist on an annual basis (with the support of an NGO).

That said, residents were only seen by the doctor if examinations had revealed any health problems. Further, it is a matter of concern that, despite the specific recommendation made by the Committee in the report on the 2014 visit, no steps have been taken by the relevant authorities to improve the provision of dental care to patients. Except for emergencies, dental care remained almost non-existent. According to the documentation available, a dentist had visited the Institution in 2019 only once (consulting seven residents), and, according to staff, dental treatment was usually limited to extractions.

Another shortcoming lies in the fact that residents and in particular those who were bedridden were still not regularly weighed, due to a lack of appropriate weighing scales.

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<sup>167</sup> In the case of an emergency, residents were transferred to the local hospital.

**The CPT calls upon the authorities of North Macedonia to take steps without further delay at Demir Kapija Special Institution to ensure that:**

- **the weekly presence of a general practitioner is increased;**
- **all residents are provided with adequate dental care (including preventative/conservative treatment);**
- **all residents and, in particular, bedridden residents are regularly weighed with a view to monitoring and documenting their nutritional status and, where appropriate, prescribing effective nutritional intervention.**

172. The delegation observed that a considerable number of residents had been identified by health-care staff as anaemic. While the residents concerned were being monitored and given appropriate medication, it is of concern that at least 40 residents had anaemia. Some residents even needed blood transfusions. **Steps should be taken to identify the causes of this state of affairs as well as potential remedies.**

173. In February 2018, an extensive assessment of the health-care needs of residents was performed by a team of doctors as part of a national programme. The specialists made a number of recommendations, including preventive dental treatment for residents and the provision of vitamin D to all bedridden residents. The delegation was informed that the latter recommendation had not been implemented in practice, due to administrative problems in purchasing vitamin D. **The CPT would like to receive the comments of the authorities of North Macedonia on this matter.**

174. As regards activities, the delegation observed that psychosocial rehabilitation plans had been prepared for most residents by the special educator, in consultation with a nurse and the social worker. The progress of implementation was usually reviewed every six months and a report was transmitted to the relevant social welfare centre. It is positive that most residents of Ward A and a number of residents on other wards were offered a range of occupational and recreational activities (such as drawing, painting, handicrafts, music therapy, etc.).

However, for many residents in particular on Wards B and C, the possibilities were insufficient or non-existent. Further, rehabilitation plans were of a very general nature and residents were not involved in the drafting of their plans.

The CPT wishes to emphasise that the care of residents should include the drawing up of a care plan for each resident, indicating the goals of treatment, the therapeutic means used and the staff member responsible. These plans should be regularly reviewed and adapted according to an in-depth assessment of each resident's physical and mental state. Health-care staff should be involved in the drawing up and review of the care plans, to ensure a multi-disciplinary approach. Particular attention should be given to developing programmes of rehabilitative activities with a view to improving the quality of life of residents, as well as resocialisation programmes preparing residents for more independent living and/or return to their families. Further, residents should be involved in the drafting of their individual plans and be informed of their progress.

**The CPT recommends that the authorities of North Macedonia take the necessary steps to ensure that these precepts are effectively implemented at Demir Kapija Special Institution. In particular, the individual support plans should be further developed to become genuine individual care plans. Further, the offer of psycho-social rehabilitative activities should be significantly broadened; as an absolute minimum, every resident should, health permitting, be offered the opportunity to participate in one organised activity every day.**

## 5. Means of restraint

175. From the information gathered, it transpired that, at Demir Kapija Special Institution, the level of use of means of restraint was very low and usually only consisted of holding an agitated/violent resident for a short while, pending his/her transfer to Negorci Psychiatric Hospital. The delegation was informed by the management that mechanical restraint was never used and that, on very rare occasions, agitated/violent residents were temporarily placed in a padded seclusion room. That said, it is regrettable that the Special Institution did not have a dedicated register in which every resort to means of restraint was recorded (in addition to the resident's individual medical file). **The CPT recommends that the authorities of North Macedonia take the necessary steps to ensure that, at Demir Kapija Special Institution, every instance of restraint of a resident (including manual control and seclusion) is recorded in a specific register established for this purpose (as well as in the resident's file).**

## 6. Safeguards

176. All residents, irrespective of whether they were deprived of their legal capacity, had been admitted to Demir Kapija Special Institution by decision<sup>168</sup> of the competent social welfare centre on the basis of a medical examination and a needs assessment. The delegation was informed by the management that none of the residents was being accommodated in the Special Institution of his/her own will and that guardians were often not involved in the admission procedure. Further, only a small number of residents (approximately 10%) were allowed to temporarily leave the premises on their own. Thus, most residents appeared to be deprived of their liberty.

The placement decision was subject to appeal within 15 days by any party (including the resident concerned) to the Ministry of Labour and Social Policy,<sup>169</sup> and a negative decision of the Ministry could be appealed before the competent administrative court.<sup>170</sup> Further, the need for institutional care of a resident was reviewed *ex officio* by the social welfare centre once a year. That said, according to the relevant legislation, residents cannot challenge their placement before a court without having completed a (potentially time-consuming) administrative appeal procedure.

**The CPT recommends that the authorities of North Macedonia take the necessary steps – including at the legislative level – to ensure that all residents who are involuntarily placed at Demir Kapija Special Institution, as well as in any other social welfare establishment, whether or not they have a legal guardian, have an effective right to bring proceedings to have the lawfulness of their placement and stay decided speedily and reviewed regularly by a court and, in this context, must be given the opportunity to be heard in person by the judge.**

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<sup>168</sup> In accordance with Sections 94, 95 and 97 of the Law on Social Protection.

<sup>169</sup> See Sections 261 and 262 of the Law on Social Protection.

<sup>170</sup> See Section 263 of the Law on Social Protection and Section 104 of the Law on the General Administrative Procedure.

**APPENDIX I**

**List of establishments visited by the CPT's delegation**

**Police establishments**

Bitola Police Station  
Gevgelija Police Station  
Gostivar Police Station  
Negotino Police Station  
Ohrid Police Station  
Skopje (Gazi Baba) Police Station  
Strumica Police Station  
Tetovo Police Station

**Prisons**

Gevgelija Prison  
Idrizovo Prison  
Kumanovo Prison  
Ohrid Prison  
Skopje Prison  
Štip Prison (targeted visit to the closed section)  
Closed Ward for Sentenced Prisoners at Skopje Clinical Centre (targeted visit)

**Psychiatric establishments**

Demir Hisar Psychiatric Hospital  
Negorci Psychiatric Hospital

**Social care establishments**

Demir Kapija Special Institution for Mentally Disabled Persons

**APPENDIX II**

**List of the authorities with whom the delegation held consultations**

**A. National authorities**

**Ministry of Foreign Affairs**

Olgica Vasilevska Senior Counsellor, Directorate for Multilateral Relations and Security Co-operation

**Ministry of the Interior**

Dejan Andonov Assistant Minister

Besir Deari Deputy Director of the Bureau for Public Security

Tatjana Kalajdziska Head of Section for Prevention and Integrity, Department of Internal Control

Evdokija Zarkova Ivanova Head of Section for Analytics, Administration and Documentation, Department of Internal Control

**Ministry of Health**

Armend Arslani Deputy Minister

**Ministry of Justice**

Renata Deskovska Minister

Jovica Stojanovikj Director of the Directorate for the Execution of Sanctions

**Ministry of Labour and Social Policy**

Gönül Bajraktar Deputy Minister

Dušan Topić Counsellor, Department of Social Protection

**Basic Public Prosecutor's Office for Prosecuting Organized Crime and Corruption**

Gordana Smakjoska Prosecutor

Marija Gjorgeva Prosecutor

**Ombudsman**

Ixhet Memeti Ombudsman

**B. International Organisations**

Samuel Žbogar Ambassador, Head of the European Union  
Delegation to North Macedonia

**C. Non-governmental organisations**

Gordan Kalajdziev President of the Helsinki Committee for Human  
Rights of North Macedonia

Vasilka Dimovska Secretary General of Poraka (Centre for the  
Support of Persons with Intellectual Disability)