



## **Report**

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

**from 11 to 21 June 2019**

The Government of Bosnia and Herzegovina has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2021) 22.

Strasbourg, 14 September 2021

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## EXECUTIVE SUMMARY

In the course of the 2019 visit, the CPT's delegation reviewed the treatment and safeguards afforded to persons deprived of their liberty by the police in both Entities of Bosnia and Herzegovina, and it examined the situation of remand and sentenced prisoners at *Sarajevo*, *Mostar* and *Banja Luka* Prisons. Further, the visit was an opportunity to assess the treatment of patients at the two psychiatric establishments in Sokolac as well as of residents at the Stolac Social Care Home.

The CPT's delegation received generally good cooperation during the visit in terms of access to establishments and documentation related to persons deprived of their liberty. That said, the delegation experienced extensive delays in accessing detention areas and documentation at some police stations, notably in *Sarajevo* and *Herzegovina-Neretva* Cantons. Clearly, not all police agencies in the country had been adequately informed of the CPT's visit in advance nor, more importantly, of its mandate. The CPT trusts that appropriate action will be taken to rectify this problem.

### Law enforcement

The CPT's delegation received numerous allegations of physical and psychological ill-treatment – including of a severity which, in the CPT's view, amount to torture (e.g., *falaka*, rape with a baton, mock execution with a gun) – of detained persons by law enforcement officials within the *Federation of Bosnia and Herzegovina* (FBiH). Allegations were also received of police officers having inflicted kicks, punches, slaps and blows with batons (as well as with non-standard objects such as baseball bats, wooden tiles and electrical cables) on detainees. The ill-treatment was apparently inflicted by crime inspectors with the intention of coercing suspects to confess, as well as by members of special intervention units at the time of the apprehension of criminal suspects. A number of cases of alleged ill-treatment are described in detail in the report. The situation in the *Republika Srpska* (RS) was found to have improved considerably since the previous visits in 2012 and 2015. That said, the delegation did receive a few allegations of physical and psychological ill-treatment of criminal suspects by police officers, notably in rural areas of this Entity.

The high number of credible allegations of police ill-treatment received by the CPT's delegation, in particular in relation to members of the *Sarajevo Cantonal Police*, is a source of deep concern for the Committee. The seriousness of the findings of the 2019 periodic visit require the competent authorities to take vigorous action to promote a radical change of culture within the police; physical ill-treatment of detainees must be rejected as unprofessional and unacceptable by the police themselves. Further, strict selection criteria must be adopted for the competitive recruitment of police officers, and modern methods of crime investigation, such as investigative interviewing techniques, must be introduced. Senior officers must be held accountable for the effective discharge of their line management responsibilities and a system of audio and video recording of police interviews should be introduced, as required by the domestic legislation. Further, medical examinations of criminal suspects need to be improved, both upon their admission to prison and when escorted by police officers to a civil hospital in order to obtain a medical certificate. Currently, injuries observed on detained persons are not accurately described, nor are the origins of those injuries explored. In addition, in order to guarantee medical confidentiality, all such medical examinations must be performed out of the hearing and preferably of the sight of police and prison officers. To this end, the CPT recommends that a system of visiting doctors be established to visit judicial police premises.

As regards the system of accountability, the findings of the visit demonstrate that investigations into alleged police ill-treatment cannot be considered effective, as they are not carried out promptly or thoroughly and neither can they be considered to be impartial and independent. The report is critical of the internal control unit of the *Sarajevo Cantonal Police* and of the role of prosecutors who, in a number of cases examined, had delegated all investigative acts to police inspectors from the same unit as the alleged perpetrators of the ill-treatment. Several recommendations are put forward to render the system of police complaints truly independent and to offer guidance to prosecutors tasked with carrying out effective investigations.

The report also assesses the effectiveness of the safeguards against police ill-treatment advocated by the CPT (i.e. the right of access to a lawyer and to a doctor and to have the fact of one's detention notified to a relative or a third person) in respect of persons deprived of their liberty by the police. In particular, the findings of the visit demonstrate that the right of access to a lawyer remains openly disregarded by police officials and that the right of access to a doctor remains ineffective outside of emergency care at a hospital emergency unit. Action should be taken to remedy this situation and to ensure that custody records in police establishments are accurate and fully updated. In addition, a code of conduct on police interviews should be introduced and an independent system of inspections of police establishments established.

The material conditions of detention in the police establishments visited varied. They were acceptable for short stays in the *Banja Luka* and *Sarajevo* establishments but remained totally unsuitable in other areas such as *Mostar* (poor access to natural light and ventilation, inadequate means of rest and too small for overnight stays). The CPT is once again critical of the practice of holding detained persons overnight in the offices of police crime inspectors in the RS, notably in *Banja Luka*.

### **Prison establishments**

The CPT notes positively the efforts invested by the BIH authorities in maintaining the prison population under control both at the State and Entity levels and it requests information on the advancement of various prison building projects and regarding the appointment of senior management for the new State Prison.

As regards the two establishments visited by the delegation in the FBiH (i.e. *Sarajevo* and *Mostar* Prisons), a few credible allegations of physical ill-treatment of inmates by staff were received, which consisted notably of slaps to various parts of the body. Further, resort was being made to informal use of means of restraint and segregation measures. The CPT is again critical of the anachronistic regime imposed on remand prisoners which, at *Sarajevo Prison*, was particularly restrictive (i.e. inmates offered only 20 to 60 minutes of outdoor exercise per day in small, poorly-equipped courtyards). The situation of the six female remand prisoners was even worse; they had even less access to outdoor exercise and only irregular access to showers. The Committee calls upon the authorities to improve radically the regime on offer to remand prisoners. Further, the lack of a professional management approach in the FBiH prison system negatively impacted upon the operation of the prisons. At *Mostar Prison*, this effect was compounded by a chronic shortage of custodial officers.

In terms of prison health care, the CPT's delegation found that health-care staff still displayed a disregard for important principles of medical ethics, such as confidentiality of medical examinations. Further, the problem of abrupt discontinuation of opioid agonist treatment for drug using inmates upon their incarceration remained a cause of concern for the CPT, in particular at *Mostar Prison*. The lack of a coherent policy on the detection, prevention and treatment of transmissible and infectious diseases must also be addressed. The CPT remains critical of the ongoing control exercised by courts over the disciplinary proceedings of remand prisoners, and of the resort to informal use of restraint

and punishment of prisoners displaying challenging behaviour. Recommendations are also addressed to the FBiH authorities to increase visiting and telephone entitlements of both sentenced and remand prisoners.

As regards *Banja Luka Prison* (the only prison establishment visited in the RS), the CPT notes positively that the martial approach found in the past had been replaced by a dynamic security concept, resulting in a far more positive atmosphere between staff and inmates. The conditions of detention in the establishment remained satisfactory and some minor improvements had been introduced to provide remand prisoners with additional recreational activities. In this regard, the CPT is encouraged by the commitment of the RS Minister of Justice to amend the Code of Criminal Procedure to introduce a purposeful regime for remand prisoners and to limit the far-reaching restrictions systematically imposed by courts on this category of prisoner. As for sentenced prisoners, the treatment and purposeful activities on offer to them are positively assessed in the report. In terms of the provision of health care, further efforts need to be invested in ensuring the systematic confidentiality of medical examinations of inmates and opioid agonist treatment of drug-using prisoners should not be abruptly terminated upon incarceration. The report also notes ameliorations in the recruitment and training of prison staff, a decrease in the resort to disciplinary sanctions and the reinforcement of legal safeguards for inmates placed under enhanced supervision measures.

### **Psychiatric institutions**

The CPT's delegation visited the Special Hospital for Forensic Psychiatry in Sokolac ("forensic psychiatric hospital") and carried out a follow up visit to the Special Hospital for Psychiatry in Sokolac ("civil psychiatric hospital"). The CPT welcomes the opening of the *forensic psychiatric hospital* but seeks clarification as regards the placement of forensic psychiatric patients from various parts of the country in this facility and expresses profound reservations about the current mixing of forensic and civil psychiatric patients in this establishment. As regards the *civil psychiatric hospital*, the Committee recommends that urgent steps be taken to stabilise its financial situation.

The delegation received no credible allegations, and found no other indications, of ill-treatment of patients by staff in either of the psychiatric establishments visited. Instances of inter-patient violence were not frequent and staff intervened appropriately.

The *forensic psychiatric hospital* was located in newly-refurbished premises and the material conditions offered to patients were overall of a very good standard. However, the CPT recommends that the occupancy levels in the patients' rooms be decreased so that no room accommodates more than four patients.

In the *civil psychiatric hospital*, most of the patients' rooms on all wards were fairly cramped and the vast majority of patients were accommodated in rooms which contained between six and 15 beds. The CPT recommends that the number of patients in the rooms be decreased. In several other respects, the material conditions on the two male wards were adequate. Efforts were being made to keep the premises of the two female wards in a satisfactory state of repair and cleanliness. However, the CPT recommends that the patients' rooms be suitably decorated and equipped with bedside tables and that the shortcomings in the toilets and shower rooms be remedied.

Patients from the rehabilitation wards had free access to the park surrounding the hospital. However, it is a matter of serious concern that both male and female acute patients were still offered their daily outdoor exercise in small cage-like areas. The CPT once again calls upon the authorities to review these arrangements.

All patients' rooms in the forensic psychiatric hospital and all rooms on the newly-refurbished acute male ward of the civil psychiatric hospital were equipped with CCTV cameras. The CPT points out that it is opposed to the routine and systematic installation and use of CCTV cameras in patients' rooms.

As regards the treatment of psychiatric patients, the CPT notes the efforts in both establishments to start drawing up individual treatment plans and also that the majority of patients from the rehabilitation wards in the civil psychiatric hospital were involved in an organised activity. However, it remained the case that the treatment of patients on the acute wards in that establishment was based almost exclusively on pharmacotherapy. In the *forensic psychiatric hospital*, only slightly more than half of the patients were involved in an activity. The CPT makes several recommendations on the treatment of patients, in particular that the programme of psychosocial rehabilitative activities should be further developed and that individual treatment plans should be drawn up for all patients.

As for the staffing situation, the CPT recommends that the occupational therapy unit in the *forensic psychiatric hospital* be reinforced and that the role of psychologists be reviewed. Further, the Committee considers that it would be desirable to increase the psychiatric input. In addition, it is a matter of serious concern to the Committee that judicial police officers at the entrance to the expertise ward were equipped with firearms; the Committee recommends that this practice be terminated.

Upon their admission to the forensic psychiatric hospital and then routinely two or three times per month, all patients (whether civil involuntary or forensic) were strip-searched by health-care staff. The CPT recommends that these arrangements be reviewed.

In the *civil psychiatric hospital*, staffing levels of various categories of staff were clearly insufficient and the CPT recommends that the staff resources be reviewed.

In both establishments, the use of means of restraint was ordered by a medical doctor and did not appear to be excessive. However, the use of chemical restraint was not recorded in a dedicated register. Moreover, in the civil psychiatric hospital, patients were routinely restrained in full view of other patients, were not under constant supervision by a member of the health-care staff and fellow patients were sometimes allowed to help staff restraining other patients. In the report, the CPT sets out the key principles which should be respected when resort is had to means of restraint and recommends that they be effectively implemented in practice.

As regards legal safeguards accompanying the civil involuntary placement in a psychiatric establishment, the CPT notes that patients were as a rule not heard in person by the court and were not able to consult with their lawyers about their case. Moreover, as was the case in the past, the statutory time limits were not always fully respected in practice. These shortcomings should be remedied.

Further, the Committee notes that in the *civil psychiatric hospital*, while all patients were formally regarded as voluntary, a number of them were *de facto* deprived of their liberty. The involuntary civil placement procedure should be fully applied to these patients. Recommendations are also made to reinforce the practical operation of safeguards accompanying consent to treatment requested from patients.

## **Social welfare establishments**

During the visit to the Stolac Social Care Home, the delegation received no credible allegations of ill-treatment of residents by staff. Episodes of inter-resident violence occurred occasionally. If staff saw these conflicts, they intervened immediately and adequately. However, due to the low staffing levels in the establishment, the staff were not always aware of all the conflicts taking place.

Overall, the material conditions offered to residents were adequate. That said, the delegation noted some signs of wear and tear and damage and the premises were rather austere and impersonal. Moreover, several rooms were not adequately equipped and residents were only given a spoon with which to eat their meals. Recommendations are made to remedy these shortcomings. On a positive note, as regards access to fresh air, throughout the day residents could go freely outside to the large courtyard between the accommodation buildings.

The staffing levels in the establishment were low and the presence of staff in each shift only allowed them to take care of the basic needs of the residents. The CPT recommends that the staffing levels of the various categories of staff be reviewed and increased.

The CPT notes positively that the team responsible for the provision of psycho-social rehabilitative activities strove to draw up care plans for the residents and that approximately half of the residents participated, to a varying degree, in an organised activity. However, for at least half of the residents, there was no organised activity and for some others, the offer was rather limited. The CPT recommends that, in particular, the offer of psychosocial rehabilitative activities should be further developed.

The use of means of restraint was very rare. However, the CPT recommends that every resort to means of restraint should be recorded in a dedicated register, residents should not be restrained in view of other residents and they should be under the continuous supervision by a qualified member of staff throughout the duration of the measure.

As regards the legal safeguards accompanying the placement of residents in social care homes, the CPT notes that all residents were formally regarded as voluntary. However, some of them were *de facto* deprived of their liberty and there was still no procedure through which they could challenge the lawfulness of their placement in the establishment before a court. The CPT recommends that the authorities put in place a clear and comprehensive legal framework governing the involuntary placement and stay of residents in social care homes, in the light of the detailed remarks set out in the report.



## I. INTRODUCTION

### A. The visit, the report and follow-up

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as “the Convention”), a delegation of the CPT carried out a visit to Bosnia and Herzegovina from 11 to 21 June 2019. The visit formed part of the CPT’s programme of periodic visits for 2019 and was the Committee’s eighth visit to Bosnia and Herzegovina.

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

- Mark Kelly, 1<sup>st</sup> Vice-President of the CPT (Head of the delegation)
- Ömer Müslümanoğlu
- Vitalie Nagacevschi
- Vytautas Raškauskas
- Olivera Vulić.

They were supported by Christian Loda and Petr Hnátík of the Committee's Secretariat, and assisted by:

- James McManus, Professor of Criminal Justice and former Prison Ombudsman of Scotland, United Kingdom (expert),
- Cyrille Orizet, psychiatrist, Georges Pompidou European Hospital and Departmental Union for Mental Health, Paris, France (expert),
- Amir Duliman (interpreter),
- Ksenija Keivanzadeh (interpreter),
- Senada Kreso (interpreter),
- Amira Sadiković (interpreter).

3. The list of police, prison and social welfare 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 100<sup>th</sup> meeting, held from 4 to 8 November 2019, and transmitted to the authorities of Bosnia and Herzegovina on 9 December 2019. 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 Bosnia and Herzegovina 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.

## **B. Consultations held by the delegation and cooperation encountered**

5. In the course of the visit, the CPT's delegation held consultations with Mustafa Bisić, Assistant Minister of Justice of Bosnia and Herzegovina, Saliha Đuderija, Assistant Minister of Human Rights and Refugees of Bosnia and Herzegovina, Anton Kasipović, Minister of Justice of the *Republika Srpska*, Dragan Lukač, Minister of the Interior of the *Republika Srpska*, Hidajet Trako, Assistant Minister of Justice of the Federation of Bosnia and Herzegovina, and Miroslav Jurešić, Assistant Minister of Labour and Social Policy of the Federation of Bosnia and Herzegovina, as well as with other senior officials from various Ministries and services concerned. The delegation also met Jasminka Džumhur, Human Rights Ombudsman.

A list of the national authorities and organisations met by the delegation is set out in Appendix II to this report.

6. The cooperation received throughout the visit, from both the authorities and staff at the establishments visited, was generally good. At most of the establishments visited, the delegation had rapid access to the establishments it wished to visit, to the documentation it wanted to consult and to individuals with whom it wished to speak. However, at several police stations of the Sarajevo and Herzegovina-Neretva Cantonal Police, as well as of the Federation of Bosnia and Herzegovina (FBiH) Police, the delegation experienced delays both in gaining access to the relevant offices and detention areas and to certain documentation it requested. Clearly, not all police agencies in the country had been adequately informed of the CPT's visit in advance nor, more importantly, of its mandate. Likewise, certain prosecutors in Sarajevo were unaware of the CPT's mandate and initially attempted to impede its access to relevant files it wished to consult.

**The Committee trusts that the Bosnia and Herzegovina authorities will take the necessary steps to ensure that all police and prosecutorial authorities in the country fully understand and are aware of the CPT's mandate.**

7. The principle of cooperation 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 CPT welcomes the progress made since its previous visits by the *Republika Srpska* (RS) to improve police professionalism with a view to stamping out police ill-treatment. That said, the high number of credible allegations of police ill-treatment received by the CPT's delegation in the course of the 2019 periodic visit in the territory of the FBiH and in particular in relation to members of the Sarajevo Cantonal Police is a source of concern. Further, the CPT notes with regret that a number of recommendations made by the Committee after its previous visits have still not been implemented. This relates in particular to the effective implementation of the fundamental safeguards against ill-treatment of persons deprived of their liberty by law enforcement officials countrywide, especially as regards effective access to a lawyer and to a doctor and the right to have the fact of one's detention notified to a relative or a third person.

Having regard to Articles 3 and 10, paragraph 2, of the Convention, the CPT trusts that the authorities of Bosnia and Herzegovina will take urgent and concrete measures to address the long-standing issues referred to above.

### **C. National Preventive Mechanism**

8. Bosnia and Herzegovina ratified the Optional Protocol to the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) in 2008 but to date has yet to set up a National Preventive Mechanism. On 5 September 2017, the Council of Ministers of Bosnia and Herzegovina (BiH), at its 113<sup>th</sup> Session, endorsed amendments to the State Law on the Ombudsman for Human Rights of Bosnia and Herzegovina and referred them to the State Parliament for adoption. This piece of legislation designating the Human Rights Ombudsman of Bosnia and Herzegovina as the institution to perform the NPM-related tasks is yet to be adopted and there is no clear timeframe for its adoption.

The CPT considers that the establishment of a National Preventive Mechanism under the OPCAT, if adequately resourced and truly independent, can make a significant contribution to the prevention of ill-treatment of persons deprived of their liberty. In the meantime, since there is still no clarity over the adoption of the necessary pending legislation, the Department for the Rights of Persons Deprived of their Liberty within the Human Rights Ombudsman Office is the only truly independent mechanism in place in the country to carry out monitoring of places of deprivation of liberty. However, it remains inadequately resourced to carry out such additional tasks effectively.

**The CPT encourages the authorities of Bosnia and Herzegovina to proceed with the adoption of the amendments to the State Law on the Human Rights Ombudsman of Bosnia and Herzegovina. Further, the Department for the Rights of Persons Deprived of their Liberty within the Human Rights Ombudsman Office should be provided with the necessary staff and financial resources to conduct visits to places of deprivation of liberty at frequent and regular intervals and subsequently to draw up detailed public reports containing its findings and recommendations.**

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

### A. Law enforcement agencies

#### 1. Preliminary remarks

9. The CPT recalls that competence for police matters lies with the Ministries of the Interior of the RS, the ten Cantons of the FBiH and the Brčko District. The Ministry of the Interior of the Federation has limited policing competencies (notably, combating international and inter-cantonal crimes). At the level of the State, law enforcement competencies are under the Ministry of Security and carried out by three agencies: the State Investigation and Protection Agency (SIPA), tasked inter alia with facilitating inter-entity and regional cooperation in combating organised crime, human trafficking and international terrorism; the State Border Police, responsible for monitoring the frontiers and for the detention of irregular migrants; and the Directorate for Coordination of Police Bodies.

10. The basic legal framework of deprivation of liberty by the police is set forth in the criminal codes and criminal procedure codes at the level of the State, FBiH, RS and the Brčko District and remained unchanged since the 2015 visit. Persons deprived of their liberty by the police on suspicion of having committed a criminal offence must be brought within 24 hours before a prosecutor,<sup>1</sup> who must, within the following 24 hours, either submit a request to the preliminary proceedings judge to remand the suspect in custody or order release. The preliminary proceedings judge may, within 24 hours, remand the individual concerned in custody; the decision may be appealed to a panel of judges who must decide on the appeal within 48 hours. The legal provisions applying to juveniles are similar with the exception that the competent judge for minors must decide within 12 hours on the motion for remand to custody previously issued by the competent prosecutor.<sup>2</sup> Finally, the police may still summon citizens for the purpose of providing information or checking their identity for a maximum period of six hours.<sup>3</sup>

#### 2. Torture and other forms of ill-treatment

11. In the course of the 2019 periodic visit to BiH, the CPT's delegation received numerous allegations of ill-treatment – including of a severity which, in the CPT's view, amount to torture (e.g., *falaka*, rape with a baton, mock execution with a gun) – of detained persons by law enforcement officials. The vast majority of such allegations concerned persons detained by police officers operating within FBiH and notably in relation to the Sarajevo Cantonal Police.

The alleged physical ill-treatment generally consisted of kicks, punches, slaps, blows with batons (as well as with non-standard objects such as baseball bats, wooden tiles and electrical cables). The ill-treatment was apparently inflicted by crime inspectors with the intention of coercing suspects

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<sup>1</sup> In the case of terrorism-related offences this period is extended to a maximum of 72 hours.

<sup>2</sup> Pursuant to Articles 98 and 99 of the FBiH and RS Laws on Protection of Juveniles in Criminal Proceedings.

<sup>3</sup> Pursuant to Articles 15 and 16 of the FBiH and RS Law on Police Officials.

to admit to certain offences as well as by members of special intervention units<sup>4</sup> at the time of the apprehension of criminal suspects. In a number of cases, the allegations were supported by medical evidence, including as regards an apparent “cluster” of cases of severe ill-treatment involving officers from the headquarters of the Sarajevo Cantonal Police.

The situation in the RS had improved considerably since the previous visits of 2011, 2012 and 2015.<sup>5</sup> That said, the delegation did receive a few allegations of physical and psychological ill-treatment of criminal suspects by police officers, notably in the Trebinje area of the RS.

12. In a number of cases, the delegation gathered medical evidence and other documentation which was consistent with the allegations of ill-treatment made by detained persons. The cases below are for the purposes of illustration. While some of the persons met by the delegation stated that they wanted to make a complaint about the ill-treatment,<sup>6</sup> others provided information on the condition that their names would not be divulged.

The most serious allegations concern the treatment to which a number of suspects in a murder case were subjected by the Sarajevo Cantonal Police. The CPT’s delegation met these persons in various prison establishments in different parts of the country. They all recounted a similar pattern of events and treatment.

- i. A person met at the remand section of Sarajevo Prison stated that following his arrest on 26 October 2018 by the RS Police in Pale, he had been handed over to SIPA officers who subsequently transferred him to the Sarajevo Cantonal Police. He was apparently detained in connection with the murder of two police officers belonging to the Sarajevo Cantonal Police earlier that same day. He alleged that during his interrogation in an office of the Crime Investigation Police Sector of the Ministry of the Interior of the Sarajevo Canton<sup>7</sup> he had been subjected to a series of punches, kicks and blows with a baseball bat to various parts of the body (i.e. head, back and thorax) by a group of police officers wearing masks. Subsequently, he alleged that he had been stripped naked and that the officers had squeezed his testicles, ears and nipples with a pair of metal pliers and, thereafter inflicted blows to the soles of his feet with a baseball bat. He alleged that he had received several blows to the head with a gun-barrel and that the point of an umbrella as well as a baton had been inserted into his anus. He also said that he had urinated and defecated upon himself and that, for some time afterwards, he had blood in his urine. The alleged ill-treatment apparently lasted until the following morning, 27 October 2018, when he was released following the intervention of a SIPA official who reportedly walked in on the interrogation. Later that same day, he was examined by health-care personnel from the emergency unit of East Sarajevo Hospital who issued a certificate containing the following entry: “*the patient comes with injuries on his head and body allegedly inflicted by police officers and complains about pain in his head, stomach and left arm. He displays the following injuries: two subgaleal haemorrhagic bruises on his head, contusion on both sides of the zygomatic region with various excoriations, different tram-line haematomas on his back, left arm and left gluteus*”.

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<sup>4</sup> I.e. *jedinice za podršku*.

<sup>5</sup> See in particular doc. [CPT/Inf \(2012\) 15](#), paragraphs 7-14 and [CPT/Inf \(2013\) 25](#), paragraphs 12-19.

<sup>6</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.

<sup>7</sup> I.e. Department of Violence, Sexual Offences and War Crimes.

- ii. A person met by the delegation at Banja Luka Prison had been arrested on 26 October 2018 and handed over to the Sarajevo Cantonal Police under the same circumstances as that described in case i) he made similar allegations of ill-treatment by crime inspectors of the Ministry of Interior of the Sarajevo Canton but in a different office. He described in detail a series of initial beatings that had caused him to faint, followed by the infliction of *falaka* and the use of metal pliers to squeeze his nipples and testicles as well as having pepper spray discharged into his face. He was released at 10h30 on 27 October 2018 and was examined by the health-care personnel from the emergency unit of East Sarajevo Hospital who issued a certificate outlining the following injuries: “...*the patient comes with injuries on his head and body allegedly inflicted by police officers. He claims to have lost consciousness shortly and reconstructs events with nausea, hangover, pain in the chest and back. He displays two 2 x 1 cm subgaleal hemorrhagic bruises on his head, two 1 cm long scratches on the right side of the head, a deep wound on the right side of the mouth, several tram-line hematomas on the upper back, on both elbows and right and left gluteus.*”.
- iii. A person met by the delegation at Sarajevo Prison who had been arrested on 5 November 2018 in Rogatica and transferred to the Crime Investigation Police Sector of the Ministry of the Interior of the Sarajevo Canton on the same day (as a suspect in relation to the killing of the two policemen mentioned above) alleged that upon his arrival at the above-mentioned police station he had received several kicks, punches and blows with a lathe to various parts of the body (i.e. head, arms, thorax and back). Subsequently, he was transferred to an office on the first floor where he alleged that his shoes and socks were removed, a sock inserted into his mouth and he was hit on the soles of his feet with a baseball bat. When taken to the judicial police detention premises he was refused admission due to his injuries and brought to the Sarajevo University Clinical Centre, by the same police officers who had allegedly inflicted the ill-treatment, to be examined. The certificate issued by the hospital stated: “*the patient sustained the following injuries yesterday due to an accidental fall: St post contusionem faciei et capitis lat sin, St post contusionem thoracolumbalis cum hematoma. Microhematuria. Hematoma reg brachi lat dex et pedi lat dex.*”.<sup>8</sup> An entry in his medical file upon admission to Sarajevo Remand Prison states that “*on 8 November upon admission the inmate declares not to have been ill-treated by the police.*” However, one week later on 16 November 2018 due to the fact that he persistently urinated blood he was referred for an urological examination.<sup>9</sup>
- iv. A person met at Sarajevo Prison stated that on 29 May 2019 he was arrested by the Sarajevo Cantonal Police and taken to the Hadžici Police Station. He alleged that, while handcuffed behind his back and seated on a chair in an office his face was repeatedly slapped and that he was whipped with a cable across his back and legs apparently to get him to confess to a series of recent robberies. Subsequently, he was allegedly forced to kneel on a leather couch and, after having his shoes and socks removed, he was subjected to blows on the soles of his feet with a wooden stick until such time as he reportedly shouted to the crime inspectors to write whatever they wished in his criminal report. When examined by the delegation’s forensic doctor on 12 June 2019, the detained person displayed the following injuries: a 10 x 10 cm sized

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<sup>8</sup> I.e. Status post contusion on the left side of the face and head, status post contusion of the thoracolumbar fascia with haematoma. Microhaematuria. Haematoma on the right arm and right foot.

<sup>9</sup> The delegation was not able to consult the result of the urological examination as the relevant certificate was not included in the inmate’s medical file kept at Sarajevo Prison.

painful region on the left mid-axillary line (7<sup>th</sup> and 8<sup>th</sup> intercostals) with no visible traumatic change to the skin and pain by lifting the left arm, an area of swelling on the left foot cruris 1/3 of its lower region and 5 cm sized brownish oblique scar. The injuries described are compatible with the alleged of ill-treatment. In addition, the CPT's delegation found two home-made batons fashioned from electrical cable in the crime inspector's office at Hadžići Police Station where the alleged ill-treatment had occurred.<sup>10</sup> An examination of the leather couch in this office revealed that it had several well-defined worn areas which appeared to indicate where persons had repeatedly been kneeling for prolonged periods.

- v. A person met at Sarajevo Prison alleged that on 22 May 2019 when apprehended by a patrol of the Sarajevo Cantonal Police, he was slapped several times and, after being immobilised face down on the ground and handcuffed behind his back, he was kicked repeatedly in the head, back and arms. Subsequently, he alleged that in office no. 10 at the Crime Investigation Police Sector of the Ministry of the Interior of the Sarajevo Canton, police inspectors punched and slapped him while he was seated on a chair handcuffed behind his back. Allegedly, the ill-treatment was to coerce a confession from him. The certificate issued by the emergency unit of Sarajevo University Clinical Centre, to which the Cantonal Police had taken him, merely stated "*wound on the supraorbital region of his face originating from an accidental fall*". However, when examined by the delegation's forensic doctor on 11 June 2019 the person in question displayed the following injuries: *on the left eyebrow 2 cm x 0.1 cm transfers, healed scars on the right arm in the lower medial side 2 cm sized and on the right knee lateral 2 x 2 cm sized and rib pain on the right axillary posterior line*. The injuries described are compatible with the allegations of ill-treatment.
- vi. A person met at Sarajevo Prison alleged that when he was arrested in his apartment on 29 December 2018 for domestic violence, two Sarajevo Cantonal police officers had repeatedly punched him in the face and struck him with batons on his back. He stated that during his transfer to the Novo Sarajevo Police Station and while held at the station he was continually subjected to slaps, kicks and punches while handcuffed behind his back. Later that same day the police took him to the Institute of Emergency Health Care of the Sarajevo Canton to obtain a medical certificate which stated: "*contusio regio thoracica sin et contusio capitis*"<sup>11</sup> without referring to the possible origin of the injuries.
- vii. A person met at Mostar Prison alleged that on 12 June 2019 following a verbal altercation with a group of police officers from the Special Support Unit of the Sarajevo Cantonal Police, who were in the act of apprehending him, they struck him several times on his legs and back with their truncheons while he was immobilised on the floor of his apartment. He also alleged that later, while detained at Ilidža Police Station in Sarajevo, he was punched on his mouth by a police officer while he was

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<sup>10</sup> The first had been created by cutting a 60cm length from thick rubber coated electrical cable, which had multiple metal filaments as its core. It was approximately 2cm in diameter. The second had been formed by cutting a shorter length of rubber electrical cable with a copper core to form a baton approximately 40cm long and 1cm in diameter. Police officers present claimed that these had been gifted to them by an electrical company that had experienced break-ins, to assist officers with their inquiries. However, neither item was labelled in any way, nor was any paperwork produced to support their contentions.

<sup>11</sup> Contusion on the left thorax region and on the head.

handcuffed and as a result, he sustained a broken tooth.<sup>12</sup> When examined by the delegation's forensic doctor on 16 June 2019 he displayed the following injuries: 0.5 x 1 cm sized hematoma on the lateral malleol of the right foot, 0.1 x 0.1 cm sized reddish wound which had begun to heal over on the medial malleol of the right foot, 3-1 cm sized parallel course to the other one (0.5 cm width) in the lower front of the cruris and just behind it transverse course 1 cm sized parallel to other one (0.5 cm width) wound. All wounds were reddish brown. The injuries were compatible with the alleged ill-treatment.

- viii. A person met at Mostar Prison on 14 June 2019, two days after his arrest by the Herzegovina-Neretva Cantonal Police for a robbery. He alleged that he was subjected to repeated punches, kicks and blows with truncheons by four officers from the Support Unit of the Mostar "Centar" Police Station at the time of his arrest *in flagrante* on the street in Mostar, after he had been handcuffed and was lying prone on the ground. The alleged ill-treatment continued during his transfer by car and subsequently in a waiting room located on the ground floor of the Mostar "Centar" Police Station. When examined by the delegation's forensic doctor on 14 June 2019, he displayed the following injuries: bruising in the 2 x 3 cm sized area under the right eye, bruising in the 3 x 3 cm sized area at the outer end of the right eyebrow, and bruising in the 2 x 3 cm sized area under the left eye, scratched areas on the left foot and left side of the neck. The injuries were compatible with the alleged ill-treatment.

13. In several cases, persons met by the CPT's delegation alleged that they had been subjected to psychological ill-treatment by crime inspectors of different police agencies in the course of their interrogations as a means to get them to confess to one or multiple offences. The treatment complained about consisted of threats against their family or relatives, experiences of near death, manipulations of hopes and expectations aimed at producing fear or terror as well as demeaning acts of an ethnic and religious nature. For example:

- i. a woman met at Banja Luka Prison told the delegation that during her interrogation by RS crime inspectors at the Zalužani Training Centre<sup>13</sup> on 19 February 2019, she was first threatened by inspectors that her husband, her co-accused, would be executed and, subsequently, when she did not furnish the information the inspectors wanted she was informed that her husband had been killed. She said that it was only the next day that the inspectors told her that her husband was in fact still alive;
- ii. the persons referred to in the cases described in paragraph 12 under points i, ii, iii all alleged that in the course of their interrogation officers picked them up and simulated throwing them out of an open window of the fourth floor of the Sarajevo Cantonal Police Headquarters building. Further, they each alleged that they had been subjected to ethnically and religious-based insults;<sup>14</sup>

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<sup>12</sup> An entry indicating a "broken tooth" was recorded in his medical file drawn up by health-care staff upon his admission at Mostar Prison.

<sup>13</sup> I.e. the Organised and Serious Crime Police Administration located at the Zalužani Training Centre.

<sup>14</sup> The three persons in question were all of Serbian ethnicity.



- iii. two persons accused of drug trafficking (in separate cases and six months apart<sup>15</sup>) alleged that they had had the barrel of a pistol placed in their mouth by crime inspectors at the FBiH “Dom Policije” Station as a means to get them to make a confession;
- iv. a person met at Banja Luka Prison alleged that upon his arrest in Gacko on 18 January 2019, while lying prone on the snowy ground with his hands cuffed behind his back, officers had fired bullets either side of his head to get him to reveal information on the location of certain smuggled merchandise.

14. In numerous instances, persons met by the CPT’s delegation alleged that they had spent several hours and even overnight handcuffed to a piece of furniture in a crime inspector’s office (notably in the RS in the Banja Luka area) without being offered food or water or access to a toilet (see also paragraph 42).

15. In the light of the delegation’s findings and observations in the course of the 2019 visit, it is incumbent on the BiH authorities to take the necessary measures to end ill-treatment by law enforcement officials through a multifaceted approach, comprising: a competitive recruitment process of police officers based upon strict selection criteria; an educational training course for all new recruits and existing police officers with a particular emphasis on modern methods of crime investigation (see paragraph 16); the accountability of senior officers for their line management responsibilities; the application of appropriate sanctions (criminal and disciplinary) for the perpetrators of ill-treatment and for 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.

In fact, the seriousness of the information gathered in the course of the 2019 visit requires immediate and determined action by the authorities. The BiH authorities and in particular the Ministries of the Interior of the FBiH, Sarajevo and Neretva-Herzegovina Cantons must recognise that the existence of ill-treatment by police officers is a fact, that it is not the result of a few rogue officers but appears to be an accepted practice within the current police culture, notably among crime inspectors. The authorities should vigorously explore all means to ensure that the message of zero tolerance of ill-treatment of detained persons reaches law enforcement officials at all levels; they should be made aware, through concrete action, that the government and police hierarchy are resolved to stamp out ill-treatment of persons deprived of their liberty. Combating ill-treatment entails not only the adoption of the appropriate legal norms 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 21).

**The CPT reiterates its recommendation that all relevant authorities of Bosnia and Herzegovina and more specifically the Ministers of the Interior and the Directors of Police of the FBiH and Sarajevo and Neretva-Herzegovina Cantons deliver a strong message that the ill-treatment of detained persons is illegal, unprofessional, and will be the subject of appropriate sanctions. This message should be reiterated at appropriate intervals at the level of regional police directorates. Further, the relevant authorities should ensure that an investigation is carried out into every allegation of ill-treatment and that senior officers are held accountable for their line-management responsibilities.**

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<sup>15</sup> Namely on 18 April 2018 and 2 December 2018.

16. 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 above in paragraph 15, 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>16</sup>

A system of ongoing monitoring of police interviewing standards and procedures should also be implemented in order to facilitate the investigation of any allegations of ill-treatment. This would require 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.

**The CPT recommends that the authorities of Bosnia and Herzegovina and, in particular, the Ministries of the Interior of the Federation of Bosnia and Herzegovina, Sarajevo and Neretva-Herzegovina Cantons act to ensure that crime inspectors carry out their duties in accordance with the relevant provisions of the relevant Criminal Procedure Codes. To this end, professional training for these officials should be provided regularly, which should cover appropriate interview and investigation techniques, as well as 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 all 16 police agencies within the country establish dedicated interview rooms with audio and video equipment for recording police interviews as required by the domestic legislation.**

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<sup>16</sup> See for example the “non-accusatory” PEACE model for investigative interviewing, which the police service of England and Wales adopted in the early 1990s as the methodology for interviewing suspects, as well as witnesses and victims. Introduced in the context of larger reforms, this methodology changed entirely the procedures applied when interviewing suspects and, in the longer term, the mindset of individual police officers and the police service at large. More recently, during its 2018 periodic visit to Norway, the CPT also examined the techniques of investigative interviewing applied by the Norwegian police (the so-called KREATIV model). Since 2004, the KREATIV course has formed part of the syllabus for university training programmes for police officers. Further, the Council of Europe has also produced an introduction to investigative interviewing. See for example “A brief introduction to investigative interviewing: A practitioner’s guide” ([Council of Europe 2018](#)). Further, reference should also be made to the substantive section of the 28<sup>th</sup> General Report of the CPT under the title “Preventing Police Torture and other Forms of Ill-Treatment – Reflections on Good Practices and Emerging Approaches”, pages 29-34 of [CPT/Inf\(2019\)9](#).

17. In the Committee's view, it is essential to promote a police culture where it is regarded as unprofessional to resort to ill-treatment. There must be a clear understanding that culpability for ill-treatment extends beyond the actual perpetrators to anyone who knows, or should know, that ill-treatment is occurring/has occurred and fails to act to prevent or report it. The CPT considers that proper conduct by members of the police vis-à-vis detained persons should be fostered, in particular by doing more to encourage police officers to prevent colleagues from ill-treating detained persons and to report, through the appropriate channels, all cases of violence by colleagues. This implies the development of a clear reporting line to a distinct authority outside of the police unit concerned as well as a legal framework for the protection of individuals who disclose information on ill-treatment and other malpractice.

**The CPT recommends that the Ministers of the Interior and the Directors of Police of FBiH and the Cantons of Sarajevo and Neretva-Herzegovina actively promote a culture change within the ranks of the law enforcement agencies. As regards the RS, the Committee notes the progress achieved in particular in the urban centres of this Entity. However, it recommends that the Ministry of the Interior of the *Republika Srpska* reiterate a message of zero tolerance of physical and psychological ill-treatment of detainees by police officers.**

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

18. The CPT has repeatedly stressed the important role that prison health-care staff can play in the prevention of ill-treatment in particular through the prompt conduct of a thorough medical examination of detained persons upon their admission to prison in full confidentiality, the accurate recording of observed injuries and the reporting of information indicative of police ill-treatment to the competent judicial and prosecutorial authorities. In this respect, the Committee notes that the Council of Europe has organised several training sessions (see paragraph 60) to enhance the skills and independence of health-care staff working in BiH prisons, including as regards the accurate recording of injuries, confidentiality of medical examinations and reporting of injuries to the competent judicial and prosecutorial authorities. It is regrettable that despite this investment,<sup>17</sup> the CPT's recommendations in this area have yet to be implemented in practice (see paragraph 61 in the prison section).

19. At Banja Luka Prison the medical screening upon admission was generally conducted by the prison doctor within 24 hours and injuries upon admission were recorded in detail in the prisoner's medical file. Any accompanying injury reports issued by civil hospitals were duly included therein and the prison director was informed. This is positive. That said, no register of injuries was in use<sup>18</sup> and the confidentiality of medical examinations was not systematically respected.

At Mostar and Sarajevo Prisons, the medical assessment of remand prisoners upon admission did not usually consist of a proper interview or physical examination by the doctor, or a nurse reporting to the doctor, but rather of a short medical history interview with a nurse. No registers of traumatic injuries were in use and medical files of prisoners (including those admitted with a medical

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<sup>17</sup> According to the CoE Office in Sarajevo a total of 40 members of prison health-care staff had attended such training since the launch of the training module in September 2017.

<sup>18</sup> With the exception of those sustained during working activities.

certificate indicating injuries in general terms) contained a standard phrase indicating that the person in question “*had not been ill-treated by the police*”. Further, the health-care staff were not aware of their reporting obligations to the competent judicial and prosecutorial authorities in cases where injuries were detected on new arrivals to prison. Finally, medical examinations continued to be systematically performed in the presence of custodial staff.

The recommendations relating to the duty of prison health-care staff at both Entities in respect of the medical screening of inmates upon admission are outlined in paragraphs 63 and 85.

20. As regards the transfer of criminal suspects from the police in Sarajevo to the Judicial Police Sector of the Sarajevo Cantonal Court (within 24 hours of a person’s apprehension), the delegation noted that the Judicial Police had recently introduced an admission questionnaire which included questions about possible violations of fundamental safeguards in the course of police detention and any allegations of ill-treatment and included a personal anamnesis. While this is, in principle, a positive development, an examination of the questionnaires since the beginning of January 2019 revealed that not one person had made an allegation of physical ill-treatment by the police nor raised any violation of their fundamental safeguards during their detention with the police. Given the many allegations of ill-treatment received by the CPT’s delegation during its visit, it seems clear that the Judicial Police admission questionnaire is not yet achieving its intended purpose.

Indeed, the practice observed during previous visits had not evolved. Any person brought by the police to the premises of the Judicial Police Sector of the Sarajevo Cantonal Court who displayed visible injuries would normally be refused until such time as the police officers effecting the transfer could produce accompanying medical documentation issued by a civil hospital. This allowed the Judicial Police to wash their hands of any potential ill-treatment and to permit the police officers, who were usually the same ones who had reportedly ill-treated the suspect, to obtain a medical certificate indicating an “accident”.

**The CPT reiterates its recommendation that the police officers charged with escorting the detained person for a medical examination are not the same ones against whom the allegations of ill-treatment are directed. For this reason, in all of Bosnia and Herzegovina, the task of escorting detained persons to the medical institution concerned should be entrusted to the judicial police. Alternatively, the judicial police should call a doctor to their premises to carry out a medical examination of the person concerned. Moreover, the judicial police should always inform the judicial authorities whenever a person is admitted to them who bears injuries or who makes an allegation of ill-treatment. Further, the confidentiality of medical examinations should be respected, and the results of the examination made available to the detained person and upon request to his or her lawyer.**

21. 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 and they accepted the police officers’ word as to the cause of the injuries. 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. Further, standard phrases were employed to justify the context of the injuries such as “*during police apprehension the detained person sustained the following injuries*” or “*due to an accidental fall/car accident during a police operation*” without further clarification.

However, as long as the police and judicial 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 once again 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. Further, under no circumstances should a copy of the medical report be given to the law enforcement officials accompanying the detained person. Further, judicial and prosecutorial authorities should be promptly informed whenever there are indications of possible physical ill-treatment.<sup>19</sup>

**The CPT recommends that the authorities of Bosnia and Herzegovina, together with the Entity and Cantonal authorities of the Federation of Bosnia and Herzegovina, put in place a system of visiting doctors to judicial police premises. These doctors should, in addition to their general practitioner qualifications, be provided with training on how to identify 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, any causal link 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.**

### **3. Investigations into allegations of ill-treatment**

22. In its reports on the 2011 and 2015 periodic visits and 2012 ad hoc visit, the CPT highlighted fundamental flaws in the system of investigations into the allegations of ill-treatment, such as the lack of promptness and expeditiousness in carrying out investigations and the passive role of prosecutorial or judicial authorities as regards starting an investigation into allegations of ill-treatment. Further, the delegation also looked into the quality of investigations performed by the relevant internal control units existing at the level of each police agency in BiH.

The information gathered in the course of the 2019 visit once more indicates that the current system is characterised by systemic flaws by the police and judicial authorities in conducting prompt, thorough, independent and impartial investigations, aimed at bringing the perpetrators of ill-treatment to justice.<sup>20</sup>

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<sup>19</sup> See Article 43 of the FBiH Law on Medical Care which places a legal duty on health-care officials to report a possible criminal act to the competent judicial and prosecutorial authorities.

<sup>20</sup> See for example paragraphs 20-23 of the CPT's report on its 2015 periodic visit to Bosnia and Herzegovina ([CPT/Inf \(2016\) 17](#)) as well as paragraphs 20-23 of the CPT's report on its 2012 ad hoc visit to Bosnia and Herzegovina ([CPT/Inf \(2013\) 25](#)).

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.

To avoid any perception of impunity, it is crucial that effective action is taken whenever any information indicative of possible ill-treatment comes to light in line with the procedural obligations under Article 3 of the European Convention on Human Rights (ECHR).

23. In terms of oversight every police agency possesses an internal control unit (which is normally denominated as a “unit for professional standards”<sup>21</sup>) under the direct jurisdiction of the relevant police directorate and which is placed under the oversight of a bureau of citizens’ complaints<sup>22</sup> at the respective Cantonal or Entity assembly. In the course of the 2019 periodic visit the delegation was informed that the relevant internal control units from all 16 police agencies had received since 2017 a total of 113 complaints from citizens in relation to alleged ill-treatment of persons deprived of their liberty by the police. Of these, 22 had been assessed as well founded by the internal control units of the relevant police agencies and in respect of six cases the disciplinary prosecutor had started investigations of which three had been referred to the competent prosecutor. In particular, the only five police officials against whom disciplinary proceedings had been imposed in the same timeframe were members of the RS police, who were fined by freezing their salaries.<sup>23</sup> As regards the Sarajevo Cantonal Police, in respect of which the delegation had received the highest number of allegations, only two out of 20 complaints had been assessed as well founded by the relevant internal control unit and one case had been referred to the competent prosecutor for further investigation. Further, it remained the case that whenever the internal control unit found *prima facie* evidence that a police officer may have ill-treated someone, it had to relinquish the case to the crime police (i.e. to the crime inspectors named in the case or to their direct supervisors) to investigate whether a crime had been committed.

24. In terms of the effectiveness of the investigations conducted into allegations of ill-treatment by the internal control units, the delegation analysed two cases related respectively to the alleged physical ill-treatment of three criminal suspects on 26 October 2018 in the premises of the Headquarters of the Sarajevo Cantonal Police and of a person apprehended and physically ill-treated by three identified members of the Sarajevo Cantonal Police on 18 April 2019 in relation to an alleged public order disturbance.

The first case showed that the investigations had been conducted solely on the basis of the examination of written reports and interviews by members of the Sarajevo Cantonal Police with the police officers subject to the complaint. The alleged victims and potential witnesses (such as e.g. other criminal suspects present in the building and the SIPA police officer mentioned in paragraph 12) had not been heard, neither had medical documentation been examined. The result of the internal control investigation indicated that there was insufficient evidence to initiate disciplinary proceedings

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<sup>21</sup> I.e. *Jedinice za profesionalne standarde*.

<sup>22</sup> I.e. *Odbor za žalbe javnosti*.

<sup>23</sup> I.e. a 20 percent reduction for three months in respect of one police official and a 20 percent reduction of salary for one month in respect of four police officers.

or refer the matter to the prosecutorial authorities and the decision had been subsequently endorsed by the three-member Bureau of Citizens' Complaints of the Sarajevo Cantonal Assembly in a simple written review of the file.

In the second case, the Internal Control Unit of the Sarajevo Cantonal Police had failed to establish a connection between the injuries sustained by the apprehended person and the application of use of force and means of restraint by the three identified police officers and appeared to give little credibility to the victim's allegation, in the light of his level of alcoholic intoxication. No witnesses had been interviewed and the relevant CCTV recordings from the surrounding area (located in the centre of Sarajevo) had only been requested by the internal control unit one month after the event, by which time the material had been erased. Further, the lawyer representing the alleged victim could obtain feedback of the status of the investigation only through a triangular correspondence with the Human Rights Ombudsman of BiH as the internal control unit failed to reply directly to her reiterated requests.

25. The CPT has already expressed its misgivings in relation to the lack of independence of the internal control units within the relevant police agencies due to their close hierarchical and institutional link with the relevant police directorate. The findings of the 2019 visit in terms of the inability of the Internal Control Unit of the Sarajevo Cantonal Police to conduct prompt and effective investigations into allegations of ill-treatment and its reluctance to provide feedback to the complainant reinforce the CPT's opinion. Further, the Committee is also convinced that the three-member Bureau of Citizens' Complaints of the Sarajevo Cantonal Assembly in its current composition could hardly be seen as an independent body capable of ensuring an impartial oversight of the relevant internal control units. In fact, two out of the three current members of this body are former Ministers of the Interior of the Sarajevo Canton.

**The CPT calls upon the authorities of Bosnia and Herzegovina (including the Entities and Cantons) to establish fully independent police complaints bodies which are adequately resourced and will ensure that allegations of police ill-treatment are investigated effectively. Until this is achieved, the Committee recommends that prosecutors who require operational support for the investigation of cases of possible police ill-treatment seek that support from the police internal control units. Such units should not be under the responsibility of the Director of Police or housed within a police building but rather directly linked to the cabinet of the Minister of the Interior or included, as special sections, within the competent state prosecutor's office. Further, such units should be appropriately staffed with qualified persons. The CPT would also like to receive the comments of the authorities of Bosnia and Herzegovina on the composition of the Bureau of Citizens' Complaints of the Sarajevo Cantonal Assembly and its perceived lack of independence in guaranteeing efficient oversight of the work of the Internal Control Unit of the Sarajevo Cantonal Police.**

26. In relation to prosecutorial investigations into allegations of ill-treatment, the delegation notes that, since 2013, a compulsory instruction had been in force at the level of the RS for all prosecutors on the manner of investigating cases of alleged police ill-treatment which was adopted as a result of the CPT's ad hoc visit to BiH.<sup>24</sup> This had resulted in the initiation of criminal proceedings and eventually the conviction of three criminal inspectors of Banja Luka Police Department for acts of physical ill-treatment and infliction of bodily injuries on persons deprived of their liberty in the course of 2014.<sup>25</sup>

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<sup>24</sup> See Instruction No. 487/12 of 17 May 2013 of the RS Republican Public Prosecutor.

<sup>25</sup> The three criminal inspectors received conditional sentences of up to six months of incarceration.

As regards the Sarajevo Cantonal Police, in respect of whom most of the allegations of police ill-treatment had been received in the course of the 2019 periodic visit, the CPT's delegation requested information from the BiH authorities on the status of the investigation into the criminal report filed on 1 November 2018 by the lawyer representing the criminal suspects described in cases i. and ii. of paragraph 12 in relation to the alleged physical ill-treatment inflicted on his clients by unidentified members of the Sarajevo Cantonal Police on 26 October 2018. In particular, the delegation was interested in the investigative actions that had been undertaken to identify the alleged perpetrators and also the SIPA inspector and other subjects who had reportedly witnessed the ill-treatment in question. By letter of 21 September 2019, the Chief Sarajevo Cantonal Prosecutor informed the Committee that, in the course of November 2018, it had opened a case in order to test the veracity of the allegations contained in the above-mentioned criminal report and that it had requested the relevant report of the internal control unit of the Sarajevo Cantonal Police on the same case which had been endorsed by the Bureau of Citizens' Complaints of the Sarajevo Cantonal Assembly as "lacking sufficient evidence". The Chief Prosecutor added in the letter that it would seek to obtain the original medical documentation on the alleged injuries inflicted on the three above-mentioned detained persons based on which it would issue a decision on whether to officially open a criminal investigation.

The CPT's delegation was also informed of two additional criminal reports. One had been filed on 27 April 2018 concerning the alleged ill-treatment and extortion of a confession from a summoned citizen which occurred in the course of "informative talks" on 25 April 2018 at the Police Station "Dom Policije" of the FBiH Police. Another had been filed on 19 April 2019, in respect of the alleged excessive use of force by three identified members of the Sarajevo Cantonal Police vis-à-vis the same above-mentioned person which had occurred on 14 April 2019. From the information gathered by the delegation it appeared that in none of these criminal reports had the Sarajevo Cantonal Prosecutor issued a decision on the opening of an investigation or the rejection of the criminal report. The lawyer representing the alleged victims had reiterated her requests to the Sarajevo Cantonal as well as BiH Prosecutors without receiving any concrete feedback on the status of those investigations.

Further, the delegation noted once again that many persons it interviewed stated that they had complained about ill-treatment by law enforcement officials to the prosecutor or to the judge before whom they were brought, but that this had been met with no response.

27. To ensure that investigations by prosecutors into allegations of ill-treatment by law enforcement officials are effective the Committee considers that the system of investigating police complaints and in particular the practice of relinquishing the investigation of an allegation of ill-treatment to the same police directorate must be reformulated in the light of the remarks in paragraph 25. In the meantime, **the CPT calls upon the authorities of Bosnia and Herzegovina to take the necessary measures to ensure that:**

- **prosecutors investigating cases of alleged torture and ill-treatment always conduct investigative actions themselves, especially as regards interviews of relevant witnesses, injured parties and police officers; in such cases, they should also always order a forensic medical examination;**
- **prosecutorial investigations into allegations of ill-treatment of detained persons are conducted in a comprehensive manner, i.e. by ensuring that significant episodes and surrounding circumstances indicative of ill-treatment are not disregarded, and in a prompt and reasonably expeditious manner;**



- **prosecutors and judges take appropriate action when there are indications that ill-treatment by the police may have occurred. In this regard, whenever criminal suspects brought before prosecutorial or 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.**

**Further, the Committee considers that the practice of prosecutors responding only via a trilateral correspondence with the Human Rights Ombudsman of Bosnia and Herzegovina to requests on the status of criminal investigations filed by the legal representatives of the alleged victims does not satisfy the requirement that investigations be reasonably transparent. In this respect, the CPT would like to receive the comments of the High Judicial and Prosecutorial Council on this matter.**

#### **4. Safeguards against ill-treatment**

##### **a. preliminary remarks**

28. The legal framework governing the formal legal safeguards advocated by the CPT against ill-treatment (i.e. the rights of access to a lawyer and to a doctor and the right to have the fact of one's detention notified to a relative or a third person) remained unchanged since the 2015 visit and is regulated by Article 5 of the State and Entities Code of Criminal Procedure (CCP).<sup>26</sup> In addition, there exist specific instructions on the treatment of persons deprived of their liberty at the level of each police agency. An analysis of all 16 instructions reveals that they do not differ substantially among themselves and contribute to the strengthening of the rights of arrested persons in particular in respect of the minimum standards for the material conditions of police detention cells, the medical assistance to be provided to detained persons in police custody and the form of the various custody registers in place.<sup>27</sup> It is noted that the instructions remain a sub-legal act of a non-binding legal nature.

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<sup>26</sup> Article 5 of the State and Entities CCP reads as follows: "*A person deprived of liberty must, in his native tongue or any other language that he understands, be immediately informed about reasons for his apprehension and instructed on the fact that he is not bound to make a statement, on his right to a defence attorney of his own choice as well as on the fact that his family, consular officer of the foreign state whose citizen he is, or other person designated by him shall be informed about his deprivation of liberty.*(2) *A person deprived of liberty shall be appointed a defence attorney upon his request if according to his financial status he cannot pay the expenses of a defence.*"

<sup>27</sup> The recent instruction adopted by the RS Police in 2018 stipulates among other things the right of detained persons to receive urgent health-care assistance (the same policemen who carried out the arrest are not entitled to accompany the person to the health-care facility), minimum requirements in terms of material conditions (adequate lighting, provision of hygiene products, mattresses and blankets, one meal every eight hours etc.), special rooms for meeting with a lawyer and the possibility for detained persons to address directly complaints of ill-treatment to the Service for the Protection of Integrity and the Legality of Work of the Police.

b. notification of custody

29. As it has been the case during previous visits, many persons alleged that the right of notification of custody to a third party had not been granted to them since the outset of their deprivation of liberty. In many cases, the relevant section of the custody registers consulted by the delegation at police establishments visited were either left blank or signed by a duty officer. The delegation was also surprised by the high proportion of persons deprived of their liberty who according to the registers had refused to avail themselves of this safeguard.<sup>28</sup>

Consequently, there was no clear evidence that the majority of persons detained had been placed in a position to exercise this right.

30. One case raised the particular concern of the delegation: a juvenile arrested in Mostar on 1 February 2019 told the delegation that his request to notify his family members had been denied by the Herzegovina-Neretva Cantonal Police. The relevant section of the custody register examined by the delegation at Mostar “Centar” Police Station was blank. Such a denial by the police is a violation of the law.<sup>29</sup>

Further, several foreign nationals, detained in various parts of the country, alleged that their requests to inform a consular authority had been denied by police officials.

**The CPT calls upon the authorities of Bosnia and Herzegovina to ensure that all persons deprived of their liberty by the police, for whatever reason, are granted 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 when they are brought to the police station). 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 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 35). Finally, police officers from all police agencies should be reminded of their duty to apply in practice this safeguard to juvenile offenders in the light of Article 96, paragraph 3 of the *Republika Srpska* and Federation of Bosnia and Herzegovina Laws on Protection of Juveniles in Criminal Proceedings.**

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<sup>28</sup> By way of example, at Mostar Police Station, of 66 people detained in 2019 (until the time of the visit), 8 (12%) were recorded as wishing a family member to be notified of the fact of their detention. 10/66 (15%) had said that they did not wish their families to be notified. However, in the majority of the cases (46/66 or 70%), the detainee’s signature had been collected without any indication being recorded of whether or not the person concerned wished to contact a family member. In 2/46 of those cases, illiterate detainees had applied their fingerprints to this section of the form, but the content had been left blank. In a further 2 cases, these fields had been left completely blank.

<sup>29</sup> See in particular Article 96, paragraph 3 of the RS and FBiH Laws on Protection of Juveniles in Criminal Proceedings which provides for the immediate notification of parents, guardians and social welfare authorities in the case of deprivation of liberty of a suspect juvenile offender.

c. access to a lawyer

31. In terms of access to a lawyer, this crucial safeguard in the prevention of ill-treatment remained unimplemented across the whole territory of BiH. The delegation collected numerous allegations from persons it interviewed that their reiterated requests to see a lawyer (either *ex officio* or of their own choice) had been met with denials or ironic comments from police officers who referred to the fact that they could not afford one or that such a right would only exist in “movies”. The delegation gained the impression that police officers were oblivious to their legal obligation to comply with the requests of criminal suspects and regarded such a right as an option for the judicial confirmation hearing. For example, several lawyers met during the visit told the delegation that they were often physically prevented by police officers from accessing the building to see their clients until the time of the signature of the written statement. Instead, such access only occurred when the person was brought before a prosecutor to give a statement or at the hearing before a judge of preliminary proceedings. Moreover, it was usually not possible for a person to consult with his or her lawyer in private prior to appearing before a prosecutor or a judge.

The adoption in the course of 2016 of a Law on Free Legal Aid at the national level, which provides for the streamlining of the appointment of *ex officio* lawyers for indigent criminal suspects based on a list and an assessment of the financial status made by one of the existing regional offices, did not appear to have improved access in practice. Several interlocutors told the delegation that police officers would systematically resort to a restricted pool of lawyers and that there was no transparent choice nor a rotation of selected *ex officio* lawyers.

As was the case during previous visits, persons “invited” to a police station in order to provide information were not granted the possibility to avail themselves of the service of a lawyer. It was not infrequent for persons participating in such “informative talks” subsequently to be detained, questioned and to make statements, all without having access to a lawyer.

32. 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. The Committee also considers that the development of an effective system of free legal aid also depends on the possibility to ensure a certain rotation in the appointment of *ex officio* lawyers by the competent authorities in order to avoid the impression of collusion between *ex officio* lawyers and the police. Finally, the right of access to a lawyer must be enjoyed by anyone who is under a legal obligation to attend – and stay at - a police establishment, e.g. as a “witness”.

**The CPT calls upon the authorities of Bosnia and Herzegovina to take steps 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.**

d. access to a doctor

33. As mentioned in paragraph 28 the right of access to a doctor is still not recognized in the relevant CCP as a statutory right. All 16 relevant instructions on the treatment of persons deprived of their liberty provide for emergency medical assistance to persons deprived of their liberty in detention as well as upon their request. That said, only the RS instruction provided for the necessity for criminal suspects to be escorted to a hospital by a different police unit than the one which had carried out the arrest of the suspect. In principle, with the exception of emergency medical assistance, persons deprived of their liberty were in general provided access to a doctor only for the purpose of issuing a certificate on injuries (see paragraph 20) upon the request of the judicial police or for the purposes of including such a certificate in the medical file upon admission to prison.

**The CPT once again calls upon the authorities to adopt specific legal provisions on access to a doctor during police custody.<sup>30</sup> Further, medical confidentiality both during examinations of the detained persons and of medical documentation must be guaranteed. The time has come for the authorities of Bosnia and Herzegovina to ensure that these rights are effectively implemented throughout the country.**

e. information on rights

34. On a positive note it appeared that most of the persons interviewed by the delegation in the course of the 2019 periodic visit had been informed of their rights in accordance with the provisions of Article 5 of the CCP. That said, this was mainly carried out verbally. The delegation also examined several files of persons deprived of their liberty which were lacking the relevant form on information of rights or, if present, this had been filled in by a police officer.

**The CPT recommends that all detained persons be provided with information, including in a written format in an appropriate language they understand, on their rights from the very outset of their detention. Detainees should be permitted to keep a copy of this written information. Further, the relevant form on information on rights should be duly filled out in the presence of the detained person, countersigned by the same and duly included in his/her relevant file.**

f. custody records

35. The above-mentioned instructions on treatment of persons deprived of their liberty also regulate in detail the form and content of the various documentation in use for the recording of detention and movements of criminal suspects. The custody records in use differ slightly in accordance with the police agency.<sup>31</sup>

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<sup>30</sup> See, inter alia, [CPT/Inf \(2013\) 25](#), paragraph 27, [CPT/Inf\( 2012\) 15](#), paragraph 20, and [CPT/Inf \(2016\) 17](#), paragraph 27.

<sup>31</sup> In the RS custody records are mainly in electronic form.

Custody registers at the police establishments visited were generally very poorly kept (e.g., records signed by detainees without any clear indication of what they were signing, records left blank or incomplete), with poor oversight by senior officers of the quality of those records. For example, in the cases no i. and ii. in paragraph 12, the time of detention of the suspects had been wrongly documented and its start postponed regardless of the certificate of handover by the SIPA.<sup>32</sup> Further, when confronted by the delegation about the numerous blank boxes left in records on safeguards police officers said that they were not obliged to fill them in if the detained person did not insist. Either the police officers were very poorly trained or they were obfuscating to defend themselves from this dereliction of their duties.

**The CPT recommends that the authorities of Bosnia and Herzegovina ensure that steps are taken immediately by all police directorates of the 16 law enforcement agencies to 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. Further, there is no justification for relevant boxes being left blank on the assumption that detained persons had waived a certain fundamental right (see also the remarks in paragraph 31).**

g. police interviews

36. In addition to the findings of the delegation in the cases described above in which criminal suspects had been subject to long interview sessions, several other detained persons told the delegation that they had not been allowed to have a break during their interview nor were they offered water or allowed to go to the toilet. Further, the juvenile mentioned in paragraph 30 had been interrogated by police officers without the presence of an adult and a social welfare official for a period of four hours and this was confirmed by the relevant documentation.

The CPT considers that there should be formal guidelines on a number of specific aspects concerning interviewing methods by the police (see also paragraph 16). Their existence would make it possible to consolidate the instruction received by police officers during their professional training.

**The CPT 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 drugs, alcohol or medicines 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 it by the person detained and questions asked during the interview. The situation of particularly vulnerable persons (e.g. with mental disorders) should carry specific safeguards. Finally, persons 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>32</sup> The custody register examined at the Headquarters of Sarajevo Cantonal Police showed that their detention had started on 27 October 2018 at 09h00 when in fact the relevant certificate of handover from the SIPA to the Sarajevo Cantonal Police displayed that they had been surrendered on 26 October 2018 at 15h20.

**As stated above and as required by domestic law, interviews should be conducted in dedicated interview rooms which are suitably equipped and have the necessary audio and video equipment installed.**

h. inspection procedures

37. As mentioned in paragraph 8 the Human Rights Ombudsman Office of BiH remained the only independent institution carrying out visits to police establishments nationwide. In this respect a Special Report on the conditions of detention in police establishments in BiH had been published in March 2019 based on visits to police establishments in both Entities as well as the Brčko District. Further, the Human Rights Ombudsman Office had issued recommendations, in particular in relation to the improving of the capacity and material conditions of detention cells and the necessity to ensure the ongoing training of staff. That said, visits were announced and the Human Rights Ombudsman Office did not have a chance to interview any detained persons in any of the 16 police establishments visited.

The CPT has repeatedly stressed that the inspection of detention facilities of law enforcement agencies by an independent authority can make an important contribution towards the prevention of ill-treatment of detained persons and, more generally, help to ensure satisfactory conditions of detention. To be fully effective, visits by monitoring bodies should be both frequent and unannounced. Further, such bodies should be empowered to interview detained persons in private and examine all issues related to their treatment (material conditions of detention; custody records and other documentation; exercise of detained persons' rights, etc.). **The Committee recommends that the Institution of the Ombudsmen of BiH, as the body carrying out visits to places of deprivation of liberty in the country, be provided with the necessary resources to monitor effectively police establishments. It should also be entitled to make unannounced visits and to talk with any detained persons in private, as well as to consult all relevant documentation.**

## 5. Conditions of detention

38. The above-mentioned instructions on the treatment of persons deprived of their liberty also provide for minimum requirements for the material conditions in detention cells at police establishments. In particular, the instructions refer to the minimum size and cubic space of cells, the need for appropriate lighting, ventilation, heating, the provision of hygiene products, mattresses and blankets and of one meal every eight hours. Regrettably, with few exceptions these standards were not being complied with in practice. Further, none of the police establishments visited (including the recently constructed detention facility at the compound of Zalužani Training Centre) possessed a facility for outdoor exercise.

39. As regards police establishment under the authority of the RS Ministry of Interior, the delegation did however have an opportunity to visit the newly constructed detention unit of the Zalužani Training Centre near Banja Luka which contained 23 cells with direct access to natural light; they were of an appropriate size for single occupancy (i.e. 9.5 m<sup>2</sup>) and each was equipped with underfloor heating and a fully partitioned sanitary annex. When inaugurated, these cells will offer good conditions of detention. **The CPT would like to be informed when this facility becomes operational.**

The three cells at Banja Luka Police Department, each measuring between 6.5 m<sup>2</sup> and 8 m<sup>2</sup> (including a semi-partitioned floor-level toilet), offered acceptable conditions of detention for single occupancy; they were clean, well-lit and ventilated, and equipped with a call-bell and CCTV). That said, as mentioned in paragraph 14 most of the persons met by the delegation at Banja Luka Prison stated that they had been held overnight in the offices of crime inspectors. Such allegations were confirmed by the relevant custodial registers examined by the delegation.

The four single-occupancy cells used in the basement of the Banja Luka District Prosecutor (measuring some 8m<sup>2</sup> each) each contained a concreted plinth covered with a wooden platform and a sink; a mattress and bedding were provided for overnight stay. That said, there was no call bell, the ventilation system was malfunctioning and the common toilet lacked toilet paper. Finally, the single-occupancy cells of Pale Police Station measuring some 7m<sup>2</sup> did not possess a call-bell.

40. As concerns police establishment of police agencies operating in the territory of the FBiH:

At Novo Sarajevo Police Station, where there were six double-occupancy cells (each measuring between 8 and 10 m<sup>2</sup>) and at the Headquarters of the FBiH Police where there were four double and triple-occupancy cells (each measuring from 9 to 14 m<sup>2</sup>) efforts were being made to keep them in a decent state of repair and hygiene. They could be considered as providing appropriate conditions for short stays (i.e. 24 hours).

The six cells, three of newer construction and three older ones, at the Judicial Police Sector of the Sarajevo Cantonal Court offered basic but acceptable conditions for detention of up to 48 hours. Each measured approximately 7 m<sup>2</sup> and was fitted with a metal bed fixed to the floor, equipped with a mattress, blanket and pillow. There was a camera in each cell, but no call bell. The window was covered by a perforated mesh and an opaque screen. There were also bars on the outside of the windows. Natural light was appropriate and artificial light was good. Ventilation was satisfactory and the premises and cells were reasonably clean. Further, one of the two the communal toilets in use for the six cells located in the corridor was malfunctioning

In the remaining police stations visited, the detention facilities contained structural deficiencies, notably:

The two single-occupancy cells in the basement of Mostar Centar Police Station (measuring a mere 4 m<sup>2</sup> and 4.5 m<sup>2</sup>) were not only too small for overnight detention, but had little access to natural light, poor ventilation and were dirty and malodorous. Detained persons held overnight were still not provided with a mattress and had to lie directly on a wooden platform. The cells had no call bells and staff were not present in the detention area and performed visual checks every 30 minutes.

The single-occupancy cell at Stolac Police Station measuring approximately 6m<sup>2</sup> was located in the basement of the building and possessed no call bell. The cell was equipped with a concrete plinth covered with a wooden platform but no mattresses or bedding were provided to persons held overnight.

41. The Committee is of the opinion that in addition to the necessary refurbishment in the existing police establishments in order to allow them to meet the minimum standards advocated by the CPT, the BiH authorities should seriously consider a planned new building programme to provide modern, centralised facilities for temporary detention which meet international standards and provide staff and detained persons with proper conditions. In this respect, the Committee welcomes the efforts invested by the RS authorities in the construction and equipment of 23 cells at the compound of Zalužani Training Centre.

42. Further, no arrangements were in place for the provision of food to detained persons at any of the police establishments visited. The delegation observed that inmates were in general offered cold snacks only after their appearance in front of a court (i.e. more than 24 hours after apprehension).

**43. The CPT calls upon the authorities to take the necessary steps to ensure that all police holding facilities on the territory of Bosnia and Herzegovina are clean and have adequate lighting (i.e. sufficient to read by, sleeping periods excluded) and ventilation; preferably, such facilities should enjoy natural light. When the need arises, police holding facilities should be adequately heated. Further, all cells used for overnight detention should be equipped with a means of rest suitable for such stays (e.g. a bed or a sleeping platform) and blankets. In addition, arrangements should be made to ensure that all persons detained in police stations are offered food and water at appropriate times.**

The CPT also recommends that no cell measuring less than 6m<sup>2</sup> be used for overnight accommodation. In fact, the Committee considers that it would be desirable for single-occupancy police custody cells used as overnight accommodation to measure 7m<sup>2</sup>.<sup>33</sup> In this respect, the CPT wishes to receive confirmation that the two cells at Mostar Centar Police Station are no longer being used for overnight detention. It also wishes to receive information on the measures taken to render the conditions of detention adequate at Stolac Police Station.

The CPT wishes to receive detailed information on the steps taken to ensure that the above minimum requirements have been applied at each of the police stations visited in the course of the 2019 visit.

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<sup>33</sup> A standard the CPT had advocated since the publication of its 2nd General Report (CPT/Inf (92) 3, paragraph 43.



## **B. Prison establishments**

### **1. Preliminary remarks**

44. The complex administrative arrangements governing Bosnia and Herzegovina are reflected in its penitentiary system which consists of three separate prison administrations and is governed by different and only partially harmonised legislation. Since the CPT's 2015 periodic visit to the country, new legislation on the execution of criminal sanctions (LECS) has entered into force in the RS (2018) and similar legislation is pending for adoption before the FBiH Parliament.<sup>34</sup> The new legislation addresses long-standing issues such as the transfer of prisoners executing a criminal sanction across Entity lines, the professionalisation of prison management and security staff and the setting-up of a fully-fledged parole system.

45. At the time of the CPT's visit in 2019, the overall prison population stood at 3,194 inmates (of whom 584 were on remand detention) for a capacity of 3,382 places (i.e. a rate of 88 inmates per 100,000); in the FBiH there were 1,827 inmates<sup>35</sup> for a capacity of 1,982 and in the RS there were 748 prisoners<sup>36</sup> for an overall capacity of 1,400 places.<sup>37</sup> Further, prison establishments in both Entities were also accommodating 151 and 468 prisoners who had been sanctioned by a court at the level of the Brčko District and the State of BiH respectively.<sup>38</sup> It is important to stress that the proportion of convicted persons serving an alternative sanction throughout the country stood at 27 percent of the overall prison population.<sup>39</sup>

As regards the prison estate, the construction of the State Prison on the outskirts of Sarajevo with a capacity of 350 places (i.e. 300 sentenced and 50 on remand detention) was finalised but the establishment is not yet operational apparently due to a disagreement among the political parties over the appointment of its senior management. Such delays cause specific financial and legal challenges as 350 State prisoners continue to be accommodated in prison establishments at the Entity level.<sup>40</sup> Further, the CPT's delegation was also informed that construction of new prison establishments was at an advanced stage in Bijeljina (approximately 250 places) but were stalled due to financial constraints at Mostar (400 places). Further, a suitable land plot for the construction of a new pavilion for the pre-trial population of the Sarajevo Canton had been identified on Mount Igman but the project remained at an embryonic phase. Finally, since the 2015 periodic visit, substantive refurbishment and construction of new sections had taken place at Zenica, Busovača and Bihać Prisons.

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<sup>34</sup> Amendments were also passed in 2016 to the State Law on the Execution of Criminal Sanctions, Detention and Other Measures particularly in respect to issues such as alternative measures of detention, foreign prisoners, execution of security measures and transfer of prisoners to establishments at the Entity level.

<sup>35</sup> Of whom 338 were on remand detention.

<sup>36</sup> Of whom 104 were on remand detention.

<sup>37</sup> The occupancy level in the RS was more favourable due to the release of inmates following the recent 2018 Amnesty Law.

<sup>38</sup> At the level of the Brčko District there were 127 sentenced prisoners and 24 on remand detention whereas in respect of the State Court of BiH the ratio stood at 350 sentenced and 118 pre-trial prisoners.

<sup>39</sup> In the course of 2018, Courts in BiH had commuted criminal sanctions to alternative measures of community work in 85 cases, a pecuniary fine in respect of 232 prisoners, house arrest for 422 inmates and various security measures in respect of 125 detained persons for a total of 864 alternative measures across both Entities.

<sup>40</sup> The Ministry of Justice of BiH was spending approximately 3.5 million euros per year in order to pay for the accommodation of State prisoners at the Entity level.

The CPT welcomes the successful measures taken by the BiH authorities to substantially reduce the prison population and to put an end to prison overcrowding. **The CPT encourages the authorities to remain vigilant in maintaining the prison population below the capacity of the prison estate. The CPT would also like to receive an update in relation to the planned construction and refurbishment activities in relation to Bijeljina, Mostar and Sarajevo Prisons. As regards the State Prison, the CPT recommends that the BiH authorities decide rapidly on the appointment of the senior management on a competency basis and take the necessary steps to ensure that the prison starts functioning.**

## **2. Prison establishments under the authority of the Ministry of Justice of the Federation of Bosnia and Herzegovina (FBiH)**

46. In 2019, the CPT's delegation visited Mostar Prison and the remand section of Sarajevo Prison. Both establishments had been visited by the Committee in the past.

**Mostar Prison**, located in the centre of the city in a two-storey building adjacent to the Cantonal Court, accommodated 135 inmates (including one female prisoner) for a capacity of 155 places, 18 of whom were on remand detention. The establishment also included a separate small economic unit accommodating nine prisoners. Works on the construction of a new prison around 7 km south of Mostar with a capacity of 400 places (200 open and 200 semi-open) had been stalled due to financial constraints and the authorities were not clear on the future of this project.

The remand section of **Sarajevo Prison** has been regularly visited by the CPT. The three-storey building adjoining the Basic Court in the centre of the city accommodated 120 prisoners (including six females) on remand detention for a capacity of 140 places. The establishment also possessed two open-regime economic units in Ustikolina and Mount Igman which accommodated 84 sentenced prisoners.

### **a. ill-treatment**

47. As was the case during previous visits, the vast majority of prisoners interviewed by the CPT's delegation made no allegations of ill-treatment by prison staff. Most of the inmates interviewed by the delegation at both prison establishments spoke positively of the way in which they were treated by prison staff.

However, the CPT's delegation received a few credible allegations of physical ill-treatment of inmates by staff at Mostar and Sarajevo Prisons, which consisted notably of slaps to various parts of the body; at Mostar Prison these related primarily to one custodial officer.

Reference should be made to the case of a prisoner at Mostar Prison who on 14 June 2019 was subjected to an informal punishment,<sup>41</sup> including placement for three to four hours in a segregation cell in handcuffs, a body belt and leg irons. Documentation and CCTV footage reviewed by the delegation confirmed the prisoner's account, and a set of handcuffs, a body belt and leg irons were found in an office opposite the segregation cell concerned. The placement of a prisoner in a segregation cell in such means of mechanical restraint could be considered degrading.

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<sup>41</sup> The prisoner in question had slammed a telephone receiver down and thrown a chair in the corridor of the remand section.

Further, a remand prisoner from Sarajevo Prison alleged that on 14 March 2019 he had been punched and kicked and placed in a segregation cell for security reasons by a prison officer for having looked into the peephole of another cell after returning from a family visit. The prison staff logbook confirmed the timing of the violation of the house rules by the inmate in question and his placement in a segregation cell<sup>42</sup> for a period of three hours as a corroborating factor of the inmate's allegation.

**The CPT recommends that the authorities of the Federation of Bosnia and Herzegovina deliver a clear message to custodial staff at Mostar Prison that the ill-treatment of prisoners is not acceptable. Further, all necessary steps should be taken to ensure that any indications of ill-treatment are properly investigated and that any such acts found to have occurred are the subject of an appropriate sanction.**

The use of mechanical means of restraint while a prisoner is held in a secure segregation cell is not permissible and **the CPT recommends that the equipment concerned and, more especially, the body belt and leg irons be withdrawn from use immediately. The Committee also recommends that the "internal informal punishment" practices observed at Sarajevo and Mostar Prisons (see also paragraph 75) be brought to an end and that every use of the segregation cell and the other small cells be properly recorded.**

48. Episodes of inter-prisoner violence were less frequent than during past visits although evident at both establishments visited. In particular, at Mostar Prison several inmates told the delegation that episodes of intimidation and violence among prisoners occurred regularly, especially in connection with drug issues, and that staff did not always react quickly in particular due to the low staffing complement (see paragraph 49).

**The CPT recommends that the authorities of the Federation of Bosnia and Herzegovina, together with the management of Mostar Prison, devise a coherent strategy to combat inter-prisoner violence; part of this strategy should include recruiting additional staff.**

b. staffing

49. Staffing levels were adequate at the remand section of Sarajevo Prison, where 91 uniformed prison officers (out of 114 budgeted posts), working in day-time shifts of 12 to 15 officers per day shift and 10 at night, were responsible for 120 inmates. That said, at Mostar Prison the staffing complement consisted of a mere 40 prison officers (22 fewer officers than in 2015) for a prison of 155 places. There were on average six prison officers on duty per shift which meant that they were not able to adequately supervise all the prisoners or fulfil their other tasks properly. The post of chief of security had been vacant for more than two years.

50. Various international actors, notably the Council of Europe's Office in Sarajevo, have invested considerable efforts over the years in developing training manuals for prison staff as well as promoting peer training activities. Nevertheless, within FBiH prison staff continued to be provided with only irregular training courses and there was no clear focus and strategy in place for training. For example, the director of Mostar Prison told the delegation that his staff had not received any

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<sup>42</sup> I.e. cell no. 73B.

training in years and, in particular, he had been entrusted to establish a special intervention unit whose members had not completed any specific training for that task.

51. The Committee notes that, unlike in the RS (see paragraph 90), the development of a professional management approach within the FBiH prison system has still not been adequately addressed by the authorities. At present, there is no career development, no job security and no system-level planning amongst the senior prison managers. Prison directors are not appointed to their posts solely on the basis of their competence, nor are prison directors provided with the necessary management training to ensure that they are able to run their prisons effectively and plan for the future. Such a state of affairs undermines any attempt to reform the prison system. Reference should be made in this context to the provisions of the European Prison Rules; they emphasise the importance of having a director in each prison who has been carefully selected for his or her ability to carry out “what is one of the most complex tasks in public service”, which includes bringing a sense of purpose, leadership and vision to the post.

**The CPT calls upon the authorities of the Federation of Bosnia and Herzegovina to introduce a professional management career path within the prison system and to ensure that prison directors and senior managers are recruited according to clear professional criteria, are given security of employment subject to satisfactory performance and are provided with relevant management training to enable them to fulfil their tasks competently.**

c. material conditions

52. Material conditions had improved at the remand section of Sarajevo Prison following the appointment of a new director in 2017 who oversaw a general refurbishment including the painting of cells, the repair of sanitary installations, the replacement of beds and mattresses and an overall disinfection. As a result, cells offered acceptable conditions of detention in terms of hygiene and state of repair. That said, the double-occupancy cells measuring approximately 8 m<sup>2</sup> still displayed deficiencies such as only semi-partitioned sanitary annexes, poor ventilation and flaking plaster on the walls. Some toilets were still malfunctioning and sanitary installations were leaking.

At Mostar Prison, some works had been conducted since the last visit, consisting mainly of painting of cells, placement of CCTV in the corridors and communal areas and the installation of air conditioners in cells. The conditions of detention were adequate in the remand section in terms of state of hygiene and repair. That said, there was a lack of general maintenance, with malfunctioning lighting in several cells, damaged flooring and blocked sanitary facilities in pavilions II and III and the admission section. Further, as the establishment was situated between the Cantonal Court and a residential area, a system of metal shutters placed in front of the cells' windows rendered them very sombre in the middle of the day<sup>43</sup> and restricted ventilation. The admission section located in the ground floor was particularly dilapidated with non-functioning artificial lighting, sanitary installations and damaged furniture.

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<sup>43</sup> A level of LUX (luminous emittance) of 5-8 was measured by the delegation at the time of the visit which is very dark (equivalent to twilight) whereas in order to read in a room a level of 250 LUX or higher is required.

53. **The CPT recommends that the authorities of Federation of Bosnia and Herzegovina remedy the deficiencies highlighted above and, in particular, take steps to ensure that:**

- **the smaller cells located on the western side of the building of Sarajevo Prison are refurbished, the sanitary installation replaced and sanitary annexes fully-partitioned;**
- **pavilions II and III and the quarantine section of Mostar Prison are maintained in an adequate state of repair (i.e. artificial lighting, wooden flooring and sanitary facilities) and metal shutters placed in front of the cell windows at Mostar Prison are replaced by alternative means of obscuring the view.**

d. regime

54. Once again and despite its long-standing recommendations the CPT's delegation found that there has been no improvement in the regime on offer to remand prisoners; they were offered only of 20 to 60 minutes of outdoor exercise per day at Sarajevo Prison and from 1 to 1.5 hours of outdoor exercise per day at Mostar Prison.<sup>44</sup> No opportunities for work or recreation were on offer for remand prisoners whose detention continued to be considered by the prison management and staff as "court-related business".

Moreover, at Mostar Prison, the courtyard used by remand prisoners still lacked a shelter (in particular against the scorching sun in summer months) as well as basic exercise equipment and a means of rest. At Sarajevo Prison, the outdoor exercise facility used by remand prisoners was in an even worse condition than during previous CPT visits due to an infestation of pigeons and the yard being strewn with rubbish. In addition, fittings such as basketball hoops and benches were damaged. Further, the yard had been split into three separate areas to create two additional exercise areas measuring approximately 20 m<sup>2</sup> each and equipped with a bench. The inmates accommodated in the specific cells which gave access to outdoor exercise in the two newly-created small yards were perceiving this as an informal punishment. Several remand prisoners also told the delegation that if one person in the cell refused to go to the courtyard all the prisoners in the cell were denied access to the yard.

**The CPT calls upon the authorities of Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina to improve radically the regime on offer to remand prisoners. The aim should be to ensure that all prisoners are able to spend a reasonable part of the day (i.e. 8 hours) outside their cells, engaged in purposeful activities of a varied nature (group association activities; work, preferably with vocational value; education; sport). The exercise yards should be maintained in an adequate state of repair and cleanliness, and shelter against inclement weather and fitness equipment should be installed, along with a means of rest.**

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

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<sup>44</sup> Pursuant to Article 52 of the Rulebook on House Rules in the Establishments for the Enforcement of Remand Detention the minimum daily entitlement of outdoor exercise for remand prisoners amounts to two hours.

55. Sentenced prisoners at Mostar Prison were offered two hours of outdoor exercise per day and access to the gym for one hour up to three times per week (depending on their categorisation) as well as to the library and a computer room. Within their respective pavilions, prisoners were offered an open-door regime and mainly spent their time in the communal areas which were equipped with tables and chairs. Only 32 out of 117 sentenced prisoners were offered paid work, mainly in the field of general maintenance work (kitchen, laundry, cleaning, food distribution, library and car washing). The post of Chief of Treatment was vacant at the time of the visit due to disciplinary proceedings initiated against the incumbent and the three educators in place were clearly limited in their work by the structural constraints of the building and the uncertain future of the new prison. The prison director informed the delegation that he had identified space in order to create an art workshop on the ground floor of the building in the short term.

**The CPT recommends that the authorities of the Federation of Bosnia and Herzegovina improve the range of activities on offer to male and female sentenced prisoners and the post of Chief of Treatment be filled as a matter of urgency.**

56. In previous visit reports, the CPT has been highly critical of the treatment of women and juveniles held in pre-trial detention in the Federation of BiH.

Regrettably, the situation is not much improved. The six female remand prisoners accommodated in two cells of the remand section of Sarajevo Prison were offered only 30 minutes of daily outdoor exercise at a different time each day in the smallest courtyard, which measured a mere 20m<sup>2</sup>. Their treatment was further constricted according to prison staff because of “their status within a predominantly male prison”. This meant that a strict dress code was imposed (e.g. short-sleeve shirts and skirts were not allowed), they were offered only irregular access to the common shower facility, had no access to tampons (only sanitary towels) and there was a complete lack of confidentiality during medical examinations including those sessions with the visiting psychiatrist.

57. The CPT understands that Sarajevo Prison was designed for male prisoners to be managed by male staff and that there are 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 rather than introducing biased and discriminatory practices.<sup>45</sup> **The CPT recommends that the authorities of the Federation of Bosnia and Herzegovina develop a gender-specific approach towards women prisoners. In the meantime, they should put an immediate stop to the current discriminatory practices at Sarajevo Prison described above.**

58. At Mostar Prison, the delegation met a female prisoner on remand who had been accommodated alone in a bigger cell of the remand section for the previous 18 months. She was positive about the treatment of custodial staff (male and female) and she was allowed to fabricate handicrafts in her cell and had regular contacts with treatment staff. The inmate had declined several offers by the prison management to be transferred to Sarajevo Prison and was awaiting final court verdict.

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<sup>45</sup> See in particular the thematic factsheet produced by the CPT under the title [“Women in Prison”](#).

59. The CPT's delegation also met a person in the remand section of Mostar Prison who had turned 18 years old in April 2019 but who had been held since 1 February 2019 in the same cell with the intermittent company of another adult prisoner and offered the same regime as other adult remand prisoners. No targeted educational and recreational activities were on offer nor had he received any type of psychological assistance.

**The CPT recalls that, as a matter of principle, juveniles should not be accommodated together with adult prisoners. Further, it reiterates its recommendation that the FBiH authorities take steps to provide all juveniles accommodated at Mostar Prison regardless of their period of detention with a full programme of purposeful activities (including education, sport, and recreation).**

e. health-care services

60. The CPT's long-standing recommendations on the need for greater coordination and a coherent policy between the FBiH Ministries of Health and Justice on the provision of health-care to prisoners remained unimplemented. At the outset of the visit, the delegation was also informed that the FBiH Ministry of Health had decisively declined the possibility of taking over responsibility for prison health-care in the Entity.

The CPT is convinced that a greater participation of Health Ministries in this area (including as regards recruitment of health-care staff, their in-service training, evaluation of clinical practice, certification and inspection) will help to ensure optimum health-care for prisoners, as well as implementation of the general principle of the equivalence of health-care in prison with that in the wider community. Whatever institutional arrangements are made for the provision of health-care in prisons, it is essential that prison doctors' clinical decisions should be governed only by medical criteria and that the quality and effectiveness of their work should be assessed by a qualified medical authority. The findings of the CPT's 2019 periodic visit suggest that there is an urgent need for health-care staff serving in FBiH to strengthen their competence and independence.

**The CPT calls upon the Ministries of Health and Justice of the Federation of Bosnia and Herzegovina to jointly take the necessary steps to improve prison health-care services, taking due account of the recommendations contained in this report.**

61. As mentioned in paragraph 18, health-care staff in both entities had undergone targeted training activities provided by the Council of Europe Office on the development and application of protocols in relation to issues which have been the subject of long-standing recommendations by the CPT in the past and which continued to remain problematic at the time of the 2019 periodic visit (such as e.g. medical ethics, efficient communication of health-care staff in prison environment, preventing the spread of communicable diseases in prison, addressing self-harm and suicide, management of hunger strikes and treatment of prisoners affected by drug addiction). Although members of the health-care staff were complimentary about those training activities, the delegation gained the impression that there was little interest in implementing in practice notions such as the confidentiality of medical examinations and other aspects of medical ethics (such as e.g. issuing fit-for-punishment certificates for inmates serving a disciplinary sanction of solitary confinement and performing urine testing of prisoners upon the request of security staff).

The health-care staff in any prison are potentially at risk. Their duty to care for their patients (sick prisoners) may often enter into conflict with considerations of prison management and security. This can give rise to difficult ethical questions and choices. In order to guarantee their independence in health-care matters, the CPT considers it important that such personnel should be aligned as closely as possible with the mainstream of health-care provision in the community at large. A prison doctor acts as a patient's personal doctor. Consequently, in the interests of safeguarding the doctor/patient relationship, health-care and security should act collaboratively and interact effectively in the respect of their professional duties and obligations and of general principles of medical ethics. In the Committee's view, after numerous and reiterated training activities provided by the Council of Europe and other international bodies on such topics, the time is ripe for a paradigm shift towards the reinforcement of the professional independence of health-care staff in prisons.

**The CPT recommends that the authorities of the Federation of Bosnia and Herzegovina 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.**

62. In terms of health-care resources, Sarajevo Prison had three full-time nurses, one part-time general practitioner (visiting the establishment twice a week) and one part-time psychiatrist (visiting on a weekly basis). The team had been reinforced by the recruitment of a dentist who also acted as the health-care coordinator.

The health-care staffing situation at Mostar Prison remained the same as in 2015 (i.e. three nurses ensuring a presence between 7h30 and 21h00 weekdays,<sup>46</sup> a dentist and a psychiatrist were visiting the establishment once a week). A part-time general practitioner was now visiting the prison two to three times per week for approximately two hours, which is an improvement on the situation in 2015 but remains insufficient.

**The CPT recommends that the authorities of the Federation of Bosnia and Herzegovina reinforce the health-care staffing at Sarajevo Prison by ensuring the equivalent of a half-time equivalent general practitioner and at Mostar Prison through ensuring the presence of a general practitioner four times per week at regular intervals.**

63. As mentioned in paragraph 19, health-care staff at Mostar and Sarajevo Prisons did not conduct prompt and thorough examinations of inmates upon admission and were not diligent in describing and recording traumatic injuries observed on newly admitted prisoners. No registers of traumatic injuries were in use and medical files of prisoners (including those admitted with a medical certificate indicating injuries in general terms) contained a standard phrase indicating that the person in question "*had not been ill-treated by the police*". Further, the health-care staff at Mostar and Sarajevo Prisons were not aware of their reporting obligations to the competent judicial and prosecutorial authorities in cases where injuries were detected on new arrivals to prison, and medical examinations continued to be systematically performed in the presence of custodial staff.

**The CPT reiterates its recommendation that steps be taken to ensure that the prison medical services at Mostar and Sarajevo Prisons, as well as other prison medical services in the rest of the FBiH, fully play their role in preventing ill-treatment, ensuring that:**

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<sup>46</sup> One nurse would remain on call after 21h00 on weekdays and would visit the establishment for a couple of hours per day during weekends.



- the doctors indicate at the end of their traumatic injury reports, whenever they are able to do so, any causal link between one or more objective medical findings and the statements of the person concerned;
- traumatic injury reports relating to injuries likely to have been caused by ill-treatment (even in the absence of statements) are automatically forwarded to the body empowered to conduct investigations, including criminal investigations, into the matter, regardless of the wishes of the person concerned;
- the doctors advise the prisoner concerned that the writing of such a report falls within the framework of a system for preventing ill-treatment, that this report automatically has to be forwarded to a clearly specified investigating body and that such forwarding does not substitute for the lodging of a complaint in proper form;
- a register of traumatic injuries observed on inmates is introduced at all prison establishments of the FBiH.

Further, in line with the recommendation outlined in paragraph 19, the confidentiality of medical examinations should be respected and the result of the examination made available to the detained person and upon request to his/her lawyer.

64. Material and hygienic conditions had generally improved at the health-care facilities of the remand section of Sarajevo Prison following the prison's refurbishment and remained satisfactory at Mostar Prison. Both facilities possessed ECG machines, oxygen cylinders and masks, blood pressure machines and stethoscopes, as well as equipment for basic biochemical blood tests. That said, there was no defibrillator at any of the establishments visited and the dilapidated dentist's chair described in the report on the 2015 visit remained in use at Sarajevo Prison. The authorities reassured the delegation that it would soon be replaced.

**The CPT recommends that both Mostar and Sarajevo Prisons be equipped with a defibrillator and that staff be trained in its use. Further, the Committee would like to receive confirmation that a new dentist's chair has been purchased and is in use at Sarajevo Prison.**

65. Access to a doctor did not constitute a problem at either establishment. However, at Mostar Prison, requests had to be addressed to, and triaged by, custodial staff. In the CPT's view, prisoners should be able to approach the health-care service on a confidential basis, for example, by means of a request form placed in a sealed envelope or directly to a nurse. Further, prison officers should not seek to screen requests to consult a doctor. **The CPT recommends that the system of requests to consult the health-care service be reviewed accordingly.**

66. At both prisons, the pharmacies were adequately equipped with medicines and the problem of disruption of supply of medication observed in 2015 at Sarajevo Prison had been addressed. Further, the distribution of medication was performed by nurses with the exception of weekends at Mostar Prison when, due to the absence of nurses, medication was distributed by custodial staff.

However, the quality of medical documentation was in general poor. Entries in medical files were scant and sometimes illegible, and personal file folders were often incomplete with missing cover sheets and "new patient checks".

**The CPT recommends that the distribution of medication always be carried out by nurses at Mostar Prison including during weekends. Further, the medical records should be rigorously and systematically maintained.**

67. There was no testing for transmissible diseases at Sarajevo Prison due to the lack of financial resources. The delegation was told that, in the case of serious doubt, inmates would be referred to an external ambulatory to test for hepatitis, HIV or tuberculosis. At Mostar Prison, the Institute for Public Health of the Canton was organising voluntary and anonymous testing of inmates on transmissible diseases three times a year. Interferon-based treatment for HCV could be continued after incarceration but could not be initiated in prison. The CPT has consistently stressed the importance of medical screening of prisoners on admission - especially at establishments which represent points of entry into the prison system. Such screening is indispensable, in particular in the interests of preventing the spread of transmissible diseases which is more likely in a closed environment as well as suicide prevention and the timely recording of any injuries. **The CPT recommends that systematic screening or active case finding of tuberculosis, voluntary counselling and testing on the blood borne infections HIV and hepatitis B/C should be offered at prisons in the FBiH. Further, uniform availability of treatment for hepatitis C and antiretroviral treatment for HIV should be offered at all prison establishments.**

68. Once again, the CPT's delegation found that there was no coherent approach towards inmates identified as having a drug-related problem. For example, at Sarajevo Prison, the possibility for inmates to start drug substitution treatment was granted only to those inmates who were enrolled in such a programme with the health-care authorities prior to their imprisonment. On the other hand, at Mostar Prison, inmates on opioid agonist therapy at the time of their imprisonment had had their treatment discontinued (see in particular the case described in paragraph 69). The approach in Mostar was in reaction to the fact that in the recent past inmates had been prescribed high dosages of methadone by the local health-care authorities without being adequately monitored. Withdrawal crisis on admission to prison was treated by benzodiazepines, antipsychotics and non-steroidal anti-inflammatory drugs, such as ibuprofen, and was not always accurately and promptly detected. Further, there was no provision of psycho-socio-educational assistance to prisoners with a drug addiction problem at either establishment visited.

**The CPT calls upon the authorities of the Federation of Bosnia and Herzegovina to develop a comprehensive strategy for the provision of assistance to prisoners with drug-related problems, as part of a wider national drugs strategy (see the remarks in paragraph 69).**

69. One drug-using inmate alleged that upon his admission to Mostar Prison on 3 July 2018 his opioid agonist treatment<sup>47</sup> which he had been taking for 18 years was abruptly discontinued (see also paragraph 68). The inmate in question told the delegation that he had suffered symptoms of withdrawal crisis for more than two weeks (i.e. vomiting, insomnia, diarrhoea and severe generalised pain) and had been treated with benzodiazepine, anti-psychotic medication and painkillers in the form of rectal suppositories. His medical file confirmed that the prison health-care authorities had failed to recognise the seriousness of his health-care status upon admission.

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<sup>47</sup> 80 mg of methadone per day.

In this context, the 2018-2023 National Strategy of Monitoring of Narcotics, Prevention and Elimination of Drug Abuse adopted by the Parliamentary Assembly of Bosnia and Herzegovina in 2017 envisages that the treatment of drug-using inmates should be inspired by the principle of equivalence of care through the provision of opioid substitution treatment (in the form of methadone) from the period of remand detention.<sup>48</sup> As mentioned in paragraph 68 such intentions remained impossible to achieve in particular at Mostar and Sarajevo Prisons.

The CPT considers that admission to prison is an opportunity to address a person's drug-related problem and it is therefore important that suitable assistance is offered to all persons concerned; consequently, appropriate health-care must be available in all prisons. The assistance offered to such persons should be varied; detoxification programmes with substitution programmes for drug-dependent patients should be combined with genuine psycho-social and educational programmes for opioid-dependent patients who are unable to stop taking drugs. Under no circumstances should an opioid substitution programme be stopped upon incarceration regardless of the barriers to such continuity of care.<sup>49</sup> Finally, all health-care staff (and prison staff generally) should be given specific training on drug-related issues.

**The CPT calls upon the FBiH authorities to develop a comprehensive strategy for the provision of assistance to prisoners with drug-related problems (as part of a wider national drugs strategy) in the light of the above remarks.<sup>50</sup> Substitution therapy should never be abruptly terminated.**

70. It is also disappointing that, despite previous recommendations by the CPT as well as by several Council of Europe funded training activities, basic questions concerning medical ethics have not yet been resolved satisfactorily. For example, at both prison establishments health-care staff continued to issue fit-for-punishment certificates for inmates serving a disciplinary sanction of solitary confinement following a mandatory medical examination prior to the serving of the measure (see Article 98 of the Law on the Execution of Criminal Sanctions (LECS) of the FBiH). Further, health-care staff were also issuing certificates confirming the absence of contra-indications for the placement of prisoners in the so-called rubber room and regularly performed urine testing for drugs of inmates upon the request of security staff as a security measure.

In the CPT's view a prison doctor acts as a patient's personal doctor. Consequently, in the interests of safeguarding the doctor/patient relationship, he/she should not be asked to certify that a prisoner is fit to undergo punishment. Nor should he/she carry out any body searches or examinations requested by an authority, except in an emergency situation when no other doctor can be called in. **The CPT recommends that the FBiH authorities amend their legislation accordingly and pending the amendment issue clear instructions to all prisons about the role and function of health-care staff, taking into account the above remarks.**

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<sup>48</sup> See page 14 of the document "*Državna Strategija Nadzora Nad Opojnim Drogama, Spriječavanja i Suzbijanja Zloupotrebe Opojnih Droga u BiH*".

<sup>49</sup> See in this respect the European Court of Human Rights (ECtHR) judgment [Wenner v. Germany](#) in which the ECtHR considered that Germany failed to comply with its positive obligation under Article 3 of the ECHR by not ensuring the continuation of substitution treatment to a long-term beneficiary of such treatment in the community after his incarceration.

<sup>50</sup> See also the publication "Mental Health and Drugs in Prison" from the Council of Europe Pompidou Group as well as chapters 13 and 14 of "Prison and Health" by the WHO Regional Office in Europe.

71. The far-reaching restrictions regulating every aspect of detention of remand prisoners also impacted on health-care. Namely, with the exception of emergency hospitalisation, prior judicial approval was mandatory for the purchase of medication and external visits/medical consultations of remand prisoners. This was causing extensive delays and represented an administrative burden for nurses who had to correspond with the judicial authorities and fill out registers. Indeed, the administrative files and registers of correspondence with the judicial authorities were far more complete and diligently kept than the medical files of inmates (see paragraph 66). Further, remand prisoners escorted for medical examinations to outside medical facilities were being systematically hand and ankle-cuffed.

**The CPT 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.**

f. other issues

*i. discipline*

72. The legal framework governing the system of disciplinary sanctions in the FBiH remained the same as during the 2015 visit. In principle, the disciplinary measures that can be imposed on sentenced inmates are a reprimand, deprivation of privileges and solitary confinement of up to 20 days. The delegation was able to observe that at both Sarajevo and Mostar Prisons there was no excessive resort to disciplinary measures and solitary confinement measures did not exceed 10 days for serious violations of the good order of the establishment. The safeguards and relevant procedure (such as the right to call witnesses, to avail oneself of the assistance of a lawyer, to appeal the decision etc.) were respected and decisions of the disciplinary commissions appeared to be well reasoned.

That said, the delegation notes that the current draft LECS of the FBiH contains a provision providing for a maximum period of solitary confinement as a disciplinary measure amounting to 30 days. This is an excessive term and distances itself even further from the relevant provision of a maximum of 10 days provided for in the LECS of BiH at the State level. Moreover, the CPT has stated repeatedly that it considers that the maximum period of solitary confinement as a disciplinary punishment should be no higher than 14 days for a given offence, and preferably lower.<sup>51</sup>

**The CPT recommends that the authorities of Bosnia and Herzegovina at the State and Entity levels harmonise the provisions regulating the sanction of solitary confinement. In this context, until such time as the laws have been harmonised, the CPT considers that the disciplinary commissions in each prison should restrict themselves to a limit of 10 days.**

73. As to remand prisoners the system of disciplinary sanctions continues to be governed by the relevant provisions of the FBiH CCP.<sup>52</sup> The relevant sanction is imposed by the competent judicial authorities upon initiation of proceedings by the security staff. The delegation found that in principle the competent judges of preliminary proceedings of the Sarajevo Cantonal Court issued decisions in a timely manner which were well reasoned and could be appealed to a higher instance. That said, most attempts by staff at Mostar Prison to initiate court-ordered disciplinary sanctions received no

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<sup>51</sup> See the CPT's 21<sup>st</sup> General Report 2010-2011, [CPT/Inf \(2011\) 28](#), paragraph 56.

<sup>52</sup> I.e. Articles 154-160 of the FBiH CCP.

response from the Herzegovina-Neretva Cantonal Court. Consequently, an informal system of punishment of remand prisoners had developed (see also paragraph 47).<sup>53</sup> Further, it was not uncommon that the sanction consisted in the suspension of visiting entitlements for periods of up to one month as provided for in Article 73 of the Rulebook on House Rules in the Establishments for the Enforcement of Remand Detention.

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 competence of imposing disciplinary sanctions against remand prisoners be transferred from the judiciary to the relevant prison management. In this respect, the relevant provisions of the CCP of the Federation of Bosnia and Herzegovina should be amended accordingly and all forms of informal disciplinary punishment such as those described in paragraph 47 should be abolished. Further, it recommends that the authorities of the Federation of Bosnia and Herzegovina no longer suspend the right to visits for inmates as a disciplinary punishment, in the light of the above remarks, and that Article 73 of the Rulebook on House Rules in the Establishments for the Enforcement of Remand Detention be amended accordingly.**

74. As regards material conditions, it is positive that at Mostar Prison the two cells located in the basement had been taken out of service<sup>54</sup> and that solitary confinement as a disciplinary punishment was now enforced in two cells in the remand section on the second floor. The cells measured around 12 m<sup>2</sup>, contained a fully-partitioned sanitary annex and were adequately lit and ventilated. One of the cells was equipped with a table and a chair, all fixed to the floor, whereas the second had no furniture. Both cells were equipped with a pull-down bed which could be locked to the wall during the day. In practice, it appeared that prison officers exercised a degree of discretion as to whether they obliged prisoners to stow the beds against the wall during the day or leave them down. In the remand section of Sarajevo Prison, the cell in use for solitary confinement (no. 80) measured 8 m<sup>2</sup> and was equipped with a bed, table and chair as well as a semi-partitioned sanitary annex.

Inmates serving a measure of solitary confinement were in general provided with reading material. That said, at the remand section of Sarajevo Prison several inmates told the delegation that they had not been offered access to outdoor exercise on a daily basis.

**The CPT recommends that all cells used for the disciplinary sanction of solitary confinement be equipped with suitable seating (e.g. a chair or bench) during the day; it would also be preferable for them to be equipped with a table. Further, the pull-down beds in the solitary confinement cells at Mostar Prison should be removed and replaced with proper beds fixed to the floor.**

**Further, the CPT recommends that the authorities of the Federation of Bosnia and Herzegovina ensure that all prisoners serving a disciplinary punishment of solitary confinement are offered at least one hour of outdoor exercise every day.**

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<sup>53</sup> E.g. in the course of 2019 the competent judges had responded only in respect of two out of 19 motions to impose disciplinary sanctions filed by the management of Mostar Prison.

<sup>54</sup> The cells in question have been criticised in the report on the CPT's 2015 periodic visit to BiH. See paragraph 77 of the CPT's report on its 2015 periodic visit to BiH [CPT/Inf \(2016\) 17](#).

*ii. security measures/means of restraint*

75. Article 72 of the Rulebook on the House Rules in the Establishments for the Enforcement of Remand Detention in the FBiH provide for resort to the security measure of segregation of a detained person in a cell in the case of disturbances of the public order of the establishment. The measure should last for the minimum period of time necessary to reduce the security risks and the director of the establishment and the competent judge should be immediately informed.<sup>55</sup> As mentioned in paragraph 47 the delegation observed that a remand prisoner had been segregated in a cell at Sarajevo Prison on 14 March 2019, another one was confined in a disciplinary cell at Mostar Prison and subject to restraint measures (such as handcuffs, body belt and leg irons) on 12 June 2019 for periods ranging between three and four hours following behaviour perceived as disruptive by prison staff. Neither incident had been recorded in a dedicated register and the delegation had to reconstruct the sequence of events from various logbooks as well as CCTV recordings. The application of handcuffs, body belt and leg irons to the above-mentioned detainee at Mostar Prison, while held securely in a disciplinary cell, is unacceptable and degrading. Further, no disciplinary proceedings had been initiated in respect of either incident and prison staff at Sarajevo and Mostar Prisons told the delegation that they regarded such measures as a system of informal punishment for the maintenance of the order of the prison (see also paragraph 73).

In the CPT's view, segregation measures and disciplinary sanctions serve distinct purposes and should therefore not be confused. A segregation measure is imposed in the interests of the institution and its inmates and staff, and thus aims at protection and prevention, while a disciplinary sanction is intended to correct a prisoner's behaviour after a breach of the Prison Rules, and thus has a certain pedagogical objective. **The CPT recommends that operational guidelines be drafted by the authorities of the Federation of Bosnia and Herzegovina to ensure that there is a clear distinction between the application of a segregation measure and a disciplinary sanction in respect of remand prisoners. The guidelines in question should also include the creation and proper keeping of a dedicated register on the application of a security measure (see also the recommendation in paragraph 47 on the disproportionate application of security measures and means of restraint).**

*iii. contacts with the outside world*

76. The anachronistic approach towards remand prisoners<sup>56</sup> was in evidence again concerning visiting entitlements. Remand prisoners were still only permitted one visit of 15 minutes per week under closed conditions and one five-minute call per week and such contacts were dependent upon the authorisation of the competent judicial authorities. At Mostar and Sarajevo Prisons, closed visits still took place in rooms equipped with a glass screen up to the ceiling with an additional metal grille placed in front of it.

By contrast, the visiting arrangements for sentenced prisoners in the establishments visited were on the whole satisfactory for those inmates classified as Category A: one hour per week with close relatives. That said, sentenced prisoners are initially classified as Category B which enables them to benefit from three hours of visits per month, which would be reduced to one hour if they regressed to Category C following a disciplinary sanction.

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<sup>55</sup> The competent judge must endorse the prolongation of the segregation measure beyond 24 hours.

<sup>56</sup> See in particular the disproportionate restrictions in terms of impoverished regime, access to outdoor exercise, material conditions and access to health-care described above in paragraphs 54 and 71.

Further, arrangements were in place for conjugal visits on a bi-monthly basis. Visiting premises were clean and in a decent state of repair and do not call for particular comment. Further, at Mostar Prison, the prison management had recently equipped the room for family visits with a play area for children. Sentenced prisoners could make telephone calls for up to thirty minutes per week.

There were however no arrangements in place for foreign national prisoners to make international calls. The CPT considers that it would be desirable to offer foreign national prisoners the possibility to maintain contact with their families abroad through using Voice over Internet Protocol (VoIP).

**The CPT recommends that all prisoners, as a rule and irrespective of their regime level and classification, be offered the equivalent of one hour of visiting time per week and preferably be able to receive one visit per week. Only in exceptional cases should an investigative judge place a restriction on visits to a remand prisoner. Further, the metal grilles placed in front of the glass screens in the visiting facilities of Sarajevo and Mostar Prisons should be removed as a matter of urgency. Moreover, remand prisoners should have open visits unless there are specific security reasons for not doing so.**

**Further, the CPT recommends that the authorities of Bosnia and Herzegovina consider introducing the use of VoIP communication for foreign national prisoners to maintain contact with their families abroad.**

77. Pursuant to Article 58 of the Rulebook on House Rules in Establishments for the Enforcement of Remand Detention of the FBiH systematic judicial control must be exercised on all incoming and outgoing correspondence concerning remand prisoners. The CPT's delegation received several complaints from remand prisoners in relation to the consistent delays that the censorship procedures implied for their correspondence.

The CPT has stressed several times that any prohibition of visits, phone calls or correspondence should be specifically substantiated by the needs of the investigation, require the approval of a body unconnected with the case at hand, and be applied for a specified period of time, with reasons stated. Further, the decision concerning prohibition should be made available to the person concerned and his/her lawyer. **The CPT recommends that the authorities of the Federation of Bosnia and Herzegovina strictly comply with the above remarks.**

*iv. complaints and inspections*

78. The complaints system remains the same as that in place in 2015<sup>57</sup> but it appeared once again that most of the inmates were unaware of the avenues available to make a complaint. Consequently, very few complaints were registered. **The CPT reiterates its recommendation that greater efforts be invested by the authorities of the Federation of Bosnia and Herzegovina to publicise the three-tier complaints system and to encourage prisoners to use it.**

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<sup>57</sup> See [CPT/Inf \(2016\) 17](#), paragraph 81.

### 3. **Prison establishments under the authority of the Ministry of Justice of the Republika Srpska**

79. The CPT's delegation paid a follow-up visit to Banja Luka Prison and undertook a targeted visit to East Sarajevo Prison for the sole purpose of interviewing remand prisoners.

**Banja Luka Prison**, visited most recently by the CPT in 2015,<sup>58</sup> was accommodating 178 prisoners at the time of the 2019 visit, including 53 on remand, of whom there were two females, for a total capacity of 242. The delegation did not visit the juvenile correctional facility located in a separate building.

80. The CPT's delegation did not receive any allegations of physical ill-treatment of inmates by staff nor any indications suggesting such a practice. Prisoners met by the delegation were in general complimentary of the way in which they were treated by staff, who demonstrated a professional attitude. The director of the establishment confirmed that the martial approach of the past had been replaced by the application of dynamic security methods. He attributed this evolution to the numerous training activities (including those organised by the Council of Europe Office in BiH) provided to staff and management which had enabled the new approach to be put in place.

Further, episodes of inter-prisoner violence were rare and staff intervened promptly whenever they did occur.

#### a. conditions of detention

81. As was the case in 2015, the material conditions of detention in the three-storey remand section of the establishment remained satisfactory following its renovation in 2012. Cells measuring 15m<sup>2</sup> were accommodating three prisoners and those of 23m<sup>2</sup> held five, and they were equipped with bunk beds, a table and chairs, shelving units, lockers, TV and a call bell. Each cell had a fully partitioned sanitary annex and access to the common shower facilities was offered twice a week although additional showers could be granted upon request.

The renovation works of the building accommodating sentenced prisoners were progressing (the first floor was under renovation at the time of the visit and only the ground floor remained unrenovated). The multiple-occupancy cells measured 30m<sup>2</sup> and 36m<sup>2</sup>, accommodating 6 and 8 prisoners respectively, and were equipped with beds, lockers and a TV, and the lighting and ventilation were generally adequate. The separate common shower and sanitary facilities were in a good state of repair and hygiene. That said, the artificial lighting was malfunctioning in several cells on the ground and second floors.

Conditions in the admission department were satisfactory, cells measuring some 25m<sup>2</sup> accommodated five or six prisoners and had just been renovated; they provided good access to natural light and ventilation. The section also included a communal room and a courtyard.

**The CPT recommends that the artificial lighting in the sentenced prisoners' section be fixed. Further, it would like to be informed when the renovations on the ground and first floors have been completed.**

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<sup>58</sup> See [CPT/Inf \(2016\) 17](#), paragraphs 83 to 119.



82. As regards the regime for remand prisoners, some timid steps were being taken to build upon the statutory two hours of outdoor exercise per day, by for example providing access to a sports facility room equipped with a table-tennis table on a daily basis. That said, remand prisoners continued to spend the rest of the day in their cells with little occupation apart from watching TV or reading newspapers. Several treatment officers from Banja Luka Prison with whom the delegation had spoken openly criticised the anachronistic nature of remand detention and felt that their potential could be better used in providing a more structured regime to pre-trial prisoners from the outset of detention.

At the end of the visit, the RS Minister of Justice informed the CPT's delegation of his intention to propose amendments to the RS CCP<sup>59</sup> aimed at introducing a purposeful regime of activities for remand prisoners and to limit the far-reaching restrictions systematically imposed by courts on this category of prisoners.

**The CPT welcomes the stated intentions of the Minister of Justice of the *Republika Srpska* and would like to receive an update on the proposed timing of the amendments to the CCP as well as details on the provisions to be amended.**

83. The regime on offer to sentenced prisoners at Banja Luka Prison consisted of a generous outdoor entitlement of up to seven hours per day in the prison grounds, which were equipped with football and volleyball pitches and garden areas for walking and sitting. Further, 106 prisoners (some 60%) were offered paid work, primarily distributed in general services or maintenance (kitchen, laundry, bakery, stove, library, plumbing and electrical installations) or in the farm and one of the production workshops (woodcarving, car repair, metalwork). Virtually every inmate who expressed an interest was offered a work activity, which is positive. Further, several other activities such as music, literary, computer, art and religious classes brought together groups of 15 inmates. Every prisoner possessed a detailed individual treatment (sentence) plan containing clear and structured objectives to be attained, the proposed activities in order to achieve them and the level and periodicity of intervention. Further, all inmates were being evaluated on a monthly basis by the treatment staff in order to review their categorisation. The establishment had also recently introduced a brochure for newly admitted prisoners as well as a pre-release information pack for inmates. **The CPT welcomes the progress made at Banja Luka Prison.**

b. health-care services

84. Health-care staffing at Banja Luka Prison consisted of one full-time general practitioner and four nurses (previously three), three of whom were covering shifts from 7h00 to 19h00 seven days a week and one of whom was acting as a laboratory technician during the morning shift. An on-call system was in place during the night. The establishment was visited on a weekly basis by a psychiatrist and a dentist.<sup>60</sup>

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<sup>59</sup> In the context of an ongoing overarching reform of the criminal legislation.

<sup>60</sup> Various dental work, including conservative dentistry, with the exception of prosthodontics, were offered free of charge.

85. At Banja Luka Prison the medical screening upon admission was generally conducted by the prison doctor within 24 hours and injuries upon admission were properly recorded in the prisoner's medical file. Any accompanying injury reports issued by civil hospitals were duly included therein and the prison director was informed. This is positive. That said, no register of injuries was in use<sup>61</sup> contrary to the provisions set forth in Article 131, paragraph 6 of the RS LECS and the confidentiality of medical examinations of newly admitted prisoners was not systematically respected. **The CPT recommends that a register of injuries recorded on newly admitted prisoners upon admission, as well as during incarceration be introduced at Banja Luka Prison. Further, the confidentiality of medical examinations of newly admitted prisoners should be systematically respected at the same prison establishment.**

86. The health-care unit had been entirely renovated since the 2015 visit and was in a good state of repair and hygiene and properly equipped (including the dental surgery and small laboratory). That said, there was no defibrillator. **The CPT recommends that a defibrillator be purchased and staff trained on its use.**

The pharmacy was well stocked with a wide range of medication. The distribution of medication was exclusively performed by nurses who also managed any requests to see a doctor.

87. Testing for transmissible diseases was not systematically offered upon admission to prison. Three times a year, the Entity health-care authorities would promote voluntary testing. Interferon-based treatment for hepatitis C could be continued after incarceration but could not be initiated in prison.

**The CPT recommends that systematic screening or active case finding of tuberculosis, voluntary counselling and testing on the blood borne infections HIV and hepatitis B/C should be offered at prisons in the RS. Further, uniform availability of treatment for hepatitis C and antiretroviral treatment for HIV should be available at all prison establishments.**

88. In relation to drug-using inmates although it was not possible for inmates to continue opioid agonist treatment after incarceration,<sup>62</sup> the treatment of inmates affected by a withdrawal crisis appeared to be more adequate than in the FBiH (see paragraphs 68 and 69) and included opioid painkillers.<sup>63</sup> **The CPT considers that substitution therapy should never be abruptly terminated when a prisoner is admitted to prison. In this respect the remarks expressed in paragraphs 68 and 69 in relation to the situation observed in the FBiH also apply in the RS context.**

89. The CPT's delegation noted positively that health-care staff were no longer involved in matters relating to discipline and security measures at Banja Luka Prison pursuant to the provisions set forth in Article 164, paragraph 3 of the RS LECS.

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<sup>61</sup> With the exception of those sustained during working activities.

<sup>62</sup> See in this respect the ECtHR judgment [Wenner v. Germany](#) op.cit. in footnote 51 above.

<sup>63</sup> Inmates received high doses of synthetic opioid tramadol, which were gradually decreased under the scheme provided by the psychiatrist.

c. other issues

90. The 2018 RS LECS contains more detailed provisions on the recruitment, employment, induction and in-service training of staff working in prisons (including security staff).<sup>64</sup> Further, a dedicated Rulebook was adopted on the nature of the competitive exam for admission to the post of prison officer in the RS. This is a positive step towards the professionalisation of staff working in prisons.

At Banja Luka Prison, the staffing complement consisted of 139 security officers and the number of officers working on each of the three shifts was adequate. Pursuant to the recently adopted “Framework Plan for the Professional Training and Advancement of Prison Staff” training activities were being organised for security and treatment staff at the level of the prison establishment in accordance with annual planning on a range of issues such as inter-personal skills and relations with vulnerable and special categories of inmates.

91. As regards discipline, the 2018 RS LECS contains welcome new provisions regulating proceedings involving prisoners.<sup>65</sup> These included a time limit of 30 days for the initiation of disciplinary proceedings following an incident, the provision of two hours of outdoor exercise every day to those serving a sanction of solitary confinement and the exclusion of health-care staff from the certification of fitness for serving a disciplinary punishment. That said, two outstanding issues which have been the subject of long-standing CPT recommendations were not addressed. The maximum period of solitary confinement for one disciplinary offence was still 20 days and appeals against decisions of a disciplinary commission could only be filed with the prison director.

**The CPT recommends that the authorities of the *Republika Srpska* amend the relevant legal provision to ensure that the maximum possible period of solitary confinement as a punishment be no higher than 14 days for a given offence, and preferably lower.**

**Further, the Committee recommends that the necessary steps be taken to ensure that prisoners have a right of appeal to an independent authority against any disciplinary sanctions imposed.**

92. At Banja Luka Prison, the CPT’s delegation found that the resort to disciplinary sanctions had drastically decreased since the 2015 visit. For example, there had been no disciplinary sanction imposed in the first half of 2019. In the course of 2017 and 2018, a total of only 20 and 18 disciplinary proceedings respectively had resulted in disciplinary sanctions and the maximum number of days of solitary confinement imposed had been 15 days on a few occasions.

93. The five solitary confinement cells located in the remand section of the prison each measured 8m<sup>2</sup> and were equipped with a table and chair fixed to the floor and a fully partitioned sanitary annex. These cells were well ventilated and in a good hygienic condition and state of repair. That said, the bed in each cell could be lifted up and attached to the wall. At the end of the visit, the Director of Banja Luka Prison stated that he would replace them with normal beds fixed to the floor. **The CPT would like to receive confirmation that the beds in the solitary confinement cells of Banja Luka Prison have been changed.**

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<sup>64</sup> See in particular Title III (Articles 29 to 65) of the RS LECS.

<sup>65</sup> See in particular Articles 155-164 of the RS LECS.

94. The provisions governing special measures for the maintenance of good order and security in prisons remain unchanged in the 2018 RS LECS. In particular, pursuant to Article 172 of the RS LECS, prisoners who represent a threat to the good order of the prison (i.e. risk of escape or violent behaviour towards other inmates or property) may be placed in an enhanced supervision department for an initial period of three months. The decision of placement of an inmate to such a department is taken by the prison director upon the proposal of treatment and security staff.

95. At the time of the visit, the enhanced supervision department at Banja Luka Prison was accommodating two prisoners for a capacity of 20 places. The material conditions of the five cells were satisfactory and the two prisoners in question<sup>66</sup> had received a written decision on the placement in the department (“amended treatment plan”) stating the goals to be attained and the concrete treatment activities proposed to attain them (e.g. control of aggressiveness, psychological assistance, social welfare assistance, etc). The decision could be appealed to the RS Ministry of Justice and the Human Rights Ombudsman of BiH.

However, although prisoners placed under enhanced supervision appeared to have more frequent meetings with treatment staff than in the past,<sup>67</sup> the regime on offer remained impoverished and only consisted of two hours of outdoor exercise per day.

The CPT welcomes the improvements introduced by the RS authorities notably in relation to the adoption of relevant legal safeguards surrounding the placement of inmates under the enhanced supervision measure (i.e. the issuing of a written decision, the possibility to appeal and the device of an amended treatment plan with clearly defined goals to be attained). **The CPT recommends that prisoners placed in enhanced supervision units be provided with a purposeful regime, which includes a diverse range of activities (including work, education, recreation, sport and offender management programmes).**

96. The provisions regulating the visit and telephone entitlements for remand prisoners had not changed; they consisted of one screened visit per week of a duration of thirty minutes and one telephone call per week of ten minutes upon the approval of the investigative judge. The CPT is of the opinion that only in exceptional cases should an investigative judge place a restriction on visits to a remand prisoner based on the nature of the investigation. As a rule, remand prisoners should receive visitors in open conditions without physical barriers.

**The CPT reiterates its recommendation that the authorities of the *Republika Srpska*, after consultation with the judiciary, take the required steps to enhance remand prisoners’ contacts with the outside world, with open visits the rule and closed visits only being imposed for security-related reasons.**

97. As for sentenced prisoners, the visit entitlements amounted to two visits per month of a duration of one hour in open conditions. Further, the prison director could approve intimate visits of various periods of duration on a monthly basis upon the proposal of treatment and security staff.

**The CPT recommends that all prisoners be offered the equivalent of one hour of visits per week. The relevant legal provisions should be amended accordingly.**

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<sup>66</sup> As well as an additional prisoner who had spent a period of 3.5 months there prior to the CPT’s visit.

<sup>67</sup> See in particular paragraph 93 of the CPT’s report on its 2015 periodic visit to BiH [CPT/Inf \(2016\) 17](#).

98. The complaints system remained the same as in 2015. Inmates are entitled to send complaints to the prison director and to the Ministry of Justice or the Human Rights Ombudsman of BiH as a second instance body. The delegation noted that complaints boxes existed in all sections and prisoners were aware of the avenues for complaint.

99. As regard inspections, the RS Ministry of Justice established a Department for the Supervision of Prison Establishments in 2018 with a pool of inspectors who carry out unannounced visits to prison establishments to assess the conditions of detention and control the legality of staff actions. Inspectors may meet with prisoners in private. After a visit, a written report is submitted to the Minister with proposals for concrete actions to be taken, including of an immediate nature. Further, Article 71 of the RS LECS provides for the appointment of a five-member Parliamentary Commission for the supervision of the protection of human rights of prisoners in RS establishments. The Commission shall report to the RS National Assembly (RSNA). **The Committee would like to receive confirmation of the establishment of the above-mentioned Parliamentary Commission for the supervision of the protection of human rights of prisoners in the *Republika Srpska*.**

## C. Psychiatric institutions

### 1. Preliminary remarks

100. The CPT's delegation visited, for the first time, the Special Hospital for Forensic Psychiatry in Sokolac ("forensic psychiatric hospital") and carried out a follow up visit to the Special Hospital for Psychiatry in Sokolac ("civil psychiatric hospital").

#### a. Special Hospital for Forensic Psychiatry in Sokolac

101. In the past, the CPT found that psychiatric patients subjected to a court-imposed measure of mandatory psychiatric treatment in a health-care facility ("forensic psychiatric patients") were accommodated in various types of establishment, including the forensic psychiatric unit at the Special Hospital for Psychiatry in Sokolac, in the forensic psychiatric annexe at Zenica Prison and in civil psychiatric hospitals, as well as in remand sections of several prisons.

In 2009, an agreement was reached among the governments of BiH, RS, FBiH and the Brčko District to set up a single forensic psychiatric institution in which patients from all parts of Bosnia and Herzegovina would be placed and treated. The new hospital – the Special Hospital for Forensic Psychiatry in Sokolac – was inaugurated in November 2014 and the first patients were admitted in December 2016. The formal responsibility for the running of the institution and for the provision of care lies with the Ministry of Health and Social Affairs of the RS; the stay of patients is financed by the respective Ministries of Justice (RS, FBiH, Brčko District) depending on which court decided on the placement of the patient in the forensic psychiatric hospital. The CPT welcomes the opening of this new facility.

102. The forensic psychiatric hospital is located in the immediate vicinity of the civil psychiatric hospital in a newly-refurbished three-storey building surrounded by a park, which had formerly served as a military hospital. The establishment has an official capacity of 200 beds and, at the time of the visit, was accommodating 99 adult patients (90 men and 9 women) on five wards: on the ground floor, a ward for male acute patients (1A), a separate ward for female patients (2A) and an "expertise ward" (also referred to as "health ward") for the placement of remand prisoners whose mental state and capacity for criminal responsibility had to be assessed.<sup>68</sup> On the first floor, there were two rehabilitation wards (1B and 2B) for male chronic patients. The second floor contained an addictions ward which was fully equipped but was not yet operational.

The most common pathologies presented by patients were psychotic disorders. The length of stay of patients in the hospital varied significantly, some of the patients having been in the hospital since its opening in December 2016. As regards more particularly the expertise ward, in theory, patients were supposed to stay for short periods of time of up to some 20 to 25 days. However, the examination of the relevant registers showed that in reality, patients could stay for several months.

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<sup>68</sup> The forensic psychiatric hospital could also accommodate sentenced prisoners who developed mental health problems while being in prison and whose capacity to serve their prison sentence needed to be assessed.

103. At the time of the visit, patients were being admitted from throughout the country, with the notable exception of the Canton of Sarajevo, apparently due to a lack of cooperation between the Cantonal authorities and the establishment. **The CPT trusts that the cooperation necessary for the placement of forensic patients from the canton of Sarajevo in the Special Hospital for Forensic Psychiatry in Sokolac will be established.** Further, **the CPT would like to be informed in which establishment(s) forensic psychiatric patients from the canton of Sarajevo are held at present.**

104. Further, during the visit, it remained unclear whether all forensic psychiatric patients from other parts of Bosnia and Herzegovina had been transferred to the forensic psychiatric hospital, or whether there were other facilities where forensic psychiatric patients were being held. **The CPT would like to receive clarification from the authorities of Bosnia and Herzegovina on this point.**

105. Of the 99 patients accommodated in the forensic psychiatric hospital at the time of the visit, 14 were forensic psychiatric patients, four patients were under expertise and some 17 patients had been placed in the establishment as forensic patients and their status had subsequently been changed to civil involuntary patients. The rest, i.e. the vast majority, had been placed in the establishment under the civil involuntary placement procedure provided for by the Law on the protection of persons with mental disorders (see paragraph 137 for more details).

The CPT considers that, generally, the therapeutic needs of forensic psychiatric patients who, as a rule, stay in hospitals for a number of years are different from those of civil patients, in particular acute psychiatric patients who are hospitalised for much shorter periods.

Moreover, the Committee notes that civil involuntary patients held in the forensic psychiatric hospital were subjected to the same security arrangements as forensic patients. In particular, they were accommodated in a secure environment with security personnel guarding the perimeter of the hospital and the entrance to the hospital building, outdoor exercise yards were surrounded by barbed wire, windows were fitted with bars and all patients' rooms (as well as other premises) were under CCTV camera surveillance. Upon arrival and thereafter several times per month, patients were strip-searched (and their rooms were searched) (see also paragraph 133) and in the course of their stay in the forensic psychiatric hospital, access to their mobile phones (which had to be deposited with staff) was restricted. Further, irrespective of their legal status, patients were accompanied by security staff if they needed to be hospitalised in an outside facility.

Consequently, the Committee has profound reservations about the current mixing of forensic and civil psychiatric patients in the forensic psychiatric hospital in Sokolac. **The CPT recommends that the authorities of Bosnia and Herzegovina review these arrangements and in particular take steps to ensure that involuntary civil psychiatric patients are not subjected to the same security measures as forensic psychiatric patients.**

b. Special Hospital for Psychiatry in Sokolac

106. The Special Hospital for Psychiatry in Sokolac had been repeatedly visited by the CPT in the past, most recently in 2011.<sup>69</sup> At the time of the 2019 visit, the hospital had an official capacity of 133 beds and was accommodating 116 adult patients (68 men and 48 women) on four wards (for acute male, chronic male, acute female and chronic female patients).<sup>70</sup>

All patients were formally regarded as voluntary. However, the information gathered during the visit indicates that the situation of a number of patients may be regarded as amounting to a *de facto* deprivation of liberty (for more details, see paragraph 141).

107. According to the information provided to the delegation, the financing scheme for the stay of acute patients for each day of hospitalisation had changed in 2014, and the hospital now received a lump sum for each acute patient, regardless of the actual length of his/her stay. This amount was reportedly grossly insufficient to cover the real costs of the hospitalisation and the hospital has consequently accrued significant debts which have hindered its proper functioning.<sup>71</sup> In particular, payments to suppliers have been delayed or have not been paid at all and the hospital has not been in a position to pay the obligatory contributions for the health, social and pension insurance of its employees, nor its part of the income tax on staff salaries; clearly, this is unlawful.

Despite the efforts currently made by staff, such a state of affairs can quickly lead to a situation where the basic needs of patients cannot be attended to. Moreover, it can easily result in high levels of stress among staff and even burnout as well as undermining their professionalism, with further negative consequences for the patients in their charge. Under these circumstances, attracting new staff (see paragraph 134) and even retaining the current employees may be a major challenge.

**The CPT recommends that the authorities of *Republika Srpska* take urgent steps to stabilise the financial situation of the Special Hospital for Psychiatry in Sokolac with a view to ensuring that legal employment rights of staff are fully respected and that patients continue to be provided with the necessary care.**

## 2. Ill-treatment

108. The delegation received no credible allegations, and found no other indications, of ill-treatment of patients by staff in either of the psychiatric establishments visited.

On the contrary, a number of patients interviewed during the visit spoke appreciatively of staff and of their helpfulness. The CPT notes positively that some patients stated explicitly that they would not hesitate to turn to staff with a complaint. Indeed, the delegation noted that the overall atmosphere in the establishments was relaxed and that staff constantly interacted with patients.

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<sup>69</sup> See doc. [CPT/Inf \(2012\) 15](#), paragraph 92 *et seqq.*

<sup>70</sup> There were plans to open two new wards, one psychogeriatric and another for the treatment of addictions, but this depended on whether funds would be made available to the hospital.

<sup>71</sup> At the time of the visit, the overall debt was said to amount to approximately 5 mil. BAM (2.5 mil. EUR).



109. Inter-patient violence was very rare in the forensic psychiatric hospital. In the civil psychiatric hospital, instances of inter-patient violence sometimes occurred, in particular on the two acute wards (e.g. quarrels between patients, minor physical conflicts). However, the findings of the visit indicate that in both establishments, staff intervened promptly and adequately to prevent any escalation of the conflict.

### 3. Patients' living conditions

110. As noted above, the *forensic psychiatric hospital* was located in newly-refurbished premises and the material conditions offered to patients were overall of a very good standard. All the areas seen by the delegation were generally in a very good state of repair and cleanliness and were adequately lit and ventilated. Patients' rooms were suitably equipped (beds with clean bedding, bedside tables, lockable wardrobes) and patients were allowed to keep some personal belongings and wear their own clothes.

On the four acute and rehabilitation wards, the rooms measured some 30 m<sup>2</sup> and were usually accommodating five to six patients.<sup>72</sup> On the expertise ward, rooms measured 17.5 m<sup>2</sup> and were accommodating up to three patients. While the living space per patient could be regarded as sufficient, the CPT considers that patients' rooms in psychiatric establishments should not accommodate more than four patients. **The CPT recommends that the occupancy levels in the patients' rooms at the Special Hospital for Forensic Psychiatry in Sokolac be decreased so that no room accommodates more than four patients.**<sup>73</sup>

111. Further, all the premises of the hospital, including patients' rooms, were rather austere; they lacked any decoration and personalisation. **The CPT recommends that the patients' rooms and the communal areas at the Special Hospital for Forensic Psychiatry in Sokolac be decorated to provide a more suitable therapeutic environment for the patients.**

112. Patients had unrestricted access to showers and the hospital was providing basic hygiene items. Sanitary facilities, accessible from the corridors, were no exception to the overall good state of repair and hygiene. Nevertheless, the delegation noted a few minor shortcomings, such as missing curtains in the showers or damaged/missing toilet seats. **The CPT recommends that these shortcomings be remedied.**

113. As regards the regime, patients were not locked in their rooms and were free to move about their wards and associate with other patients. They had access to communal rooms which were equipped with tables, chairs and TVs, as well as, with the exception of the expertise ward, with a kitchenette which could be used by the patients to make tea/cook.

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<sup>72</sup> In some rooms, there were three or four patients at the time of the visit.

<sup>73</sup> This could be achieved, for example, by taking into service the premises of the future addictions ward located on the second floor of the forensic psychiatric hospital.

114. The three wards located on the ground floor each had an adjoining spacious outdoor exercise yard (equipped with a means of rest and a shelter against inclement weather) which patients could access for most of the day. Patients accommodated on the two wards on the first floor were usually taken outside for fresh air by staff twice a day, each time for one to two hours, in the park surrounding the hospital. **The CPT invites the authorities of Republika Srpska to explore how access to fresh air for patients accommodated on the first floor of Special Hospital for Forensic Psychiatry in Sokolac could be further improved. 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.**

115. In the *civil psychiatric hospital*, the building of the former forensic ward<sup>74</sup> had been refurbished and now housed the closed acute male ward (on the ground floor) and the open male rehabilitation ward (on the first floor).<sup>75</sup> Material conditions on these two wards were adequate in terms of state of repair and hygiene, as well as access to natural light, artificial lighting and ventilation. However, the premises were impersonal and austere.

Efforts were being made to keep the premises of the closed female acute and open female rehabilitation wards, located in two detached one-storey buildings, in a satisfactory state of repair and cleanliness. Moreover, it is positive that the rehabilitation ward was personalised with pictures, plants, personal belongings and colourful curtains on the windows. However, several toilets and showers were in a poor state of repair and unventilated and on the female acute ward, the delegation received several complaints that the water in the showers was too hot.<sup>76</sup>

Moreover, on the two acute wards, the rooms were not equipped with bedside tables for the patients.

**The CPT recommends that the authorities of Republika Srpska take the necessary steps to ensure that at the Special Hospital for Psychiatry in Sokolac:**

- **patients' rooms and other premises of the two male wards and the female acute ward are decorated to provide a more suitable therapeutic environment for the patients;**
- **on the two acute wards, rooms are equipped with bedside tables;**
- **all toilets and showers are maintained in a good state of repair and hygiene and properly ventilated and the water temperature in the showers is appropriate.**

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<sup>74</sup> All forensic patients had been transferred to the newly-open forensic psychiatric hospital.

<sup>75</sup> The building which used to accommodate male patients was being refurbished at the time of the visit. It was expected that as of 1 September 2019, it would contain an additional male acute ward on the ground floor. The first floor was to be refurbished once funds have been made available.

<sup>76</sup> Staff confirmed to the delegation that the water temperature on the new boiler could not be manually regulated.

116. Although the number of patients in the rooms had been decreased since the last visit, it remained the case that most of the patients' rooms in the civil psychiatric hospital were fairly cramped, with most of the floor space being taken up by the beds which were almost touching each other. Moreover, the vast majority of patients were accommodated in rooms which contained between six and 15 beds.<sup>77</sup> The CPT wishes to emphasise that large-capacity dormitories may have a counter-therapeutic, depersonalising and institutionalising effect on patients and compromise their privacy. It is generally held that large-capacity dormitories are not compatible with current standards of accommodation for psychiatric in-patients. As noted above, the CPT considers that patients' rooms in psychiatric establishments should not accommodate more than four patients.

**The CPT recommends that the authorities of *Republika Srpska* take the necessary steps to ensure that the number of patients in the rooms at the Special Hospital for Psychiatry in Sokolac is further decreased. The aim should be to ensure that no room accommodates more than four patients. This requirement should be taken into account during the ongoing refurbishment works in the establishment and, as appropriate, in other psychiatric establishments in Bosnia and Herzegovina.**

117. As for the daily regime, all patients were free to move about their wards and had access to communal areas which were equipped with tables, chairs/benches and a TV. However, on all wards, patients' rooms were locked during the day, with the exception of an afternoon nap between 14h00 and 16h00., and the patients had to stay in the communal areas. According to staff, this was necessary to ensure that patients did not stay in their rooms and sleep throughout the day.

The CPT favours the approach of allowing patients who so wish to have access to their room during the day, rather than being obliged to remain assembled together with other patients in communal areas. **The CPT would like to receive the comments of the authorities of *Republika Srpska* on this matter.**

118. Patients from the rehabilitation wards had free access to the park surrounding the hospital. However, it is a matter of serious concern that both male and female acute patients were still offered their daily outdoor exercise (usually for two hours) accompanied by staff in small cage-like areas attached to the side of their buildings which had no shelter against inclement weather.<sup>78</sup> **The CPT once again calls upon the authorities of *Republika Srpska* to ensure that the arrangements for outdoor exercise for patients on the male and female acute wards are reviewed, in order that all patients may benefit from such exercise in a reasonably spacious setting which should also provide shelter against inclement weather. The current cage-like areas are not fit for purpose. 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.**

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<sup>77</sup> The rooms usually measured 23 to 28 m<sup>2</sup> (six and seven beds), 27 to 30 m<sup>2</sup> (eight beds) and 38 m<sup>2</sup> (nine beds); the room for 15 patients measured 59 m<sup>2</sup>.

<sup>78</sup> These arrangements have been repeatedly criticised by the CPT in the past. See, for example, the reports on the 2011 and 2009 visits (respectively, doc. [CPT/Inf \(2012\) 15](#), paragraph 95, and [CPT/Inf \(2010\) 10](#), paragraph 44). It is recalled that the building accommodating male patients was formerly used for forensic psychiatric patients.

119. All patients' rooms in the forensic psychiatric hospital and all rooms on the newly-refurbished acute male ward of the civil psychiatric hospital were equipped with CCTV cameras (in addition to video surveillance of various parts of the communal areas).

The CPT appreciates that CCTV cameras in certain rooms can be a useful safeguard in particular cases, for example when a person is considered to be at risk of self-harm or suicide. However, cameras cannot be a replacement for an active staff presence in high risk situations; the best way of reducing the risk posed by individual patients is personal interaction between staff and the relevant patient. Moreover, video surveillance is a gross intrusion into the privacy of patients and the decision to impose CCTV surveillance on a particular person should always be based on an individual risk assessment and should be reviewed on a regular basis. Accordingly, the Committee is opposed to the routine and systematic installation and use of CCTV cameras in patients' rooms.

**The CPT recommends that the authorities of *Republika Srpska* end the blanket use of CCTV cameras within patients' rooms at the Special Hospital for Forensic Psychiatry in Sokolac and at the Special Hospital for Psychiatry in Sokolac, as well as, as appropriate, in other psychiatric establishments.**

Further, the Committee would like to be informed of the legal basis for installing CCTV cameras in patients' rooms.<sup>79</sup>

#### 4. Treatment

120. The CPT considers that the treatment of psychiatric patients should involve, in addition to appropriate medication and medical care, a wide range of therapeutic, rehabilitative and recreational activities. It should be based on an individualised approach, which implies the drawing up of a treatment plan for each patient (taking into account the special needs of acute, long-term and forensic patients including, with respect to the last-mentioned, the need to reduce any risk they may pose), indicating the goals of treatment, the therapeutic means used and the staff member responsible. The treatment plan should also contain the outcome of a regular review of the patient's mental health condition and a review of the patient's medication. Patients should be involved in the drafting of their individual treatment plans and their subsequent modifications and informed of their therapeutic progress.

For those patients accommodated in the acute wards, the plan should address the patient's immediate needs and identify any risk factors as well as focusing on treatment objectives and how in broad terms these will be achieved. For patients placed in the rehabilitation wards, the plans should identify early warning signs of relapse and any known triggers, and an action plan that a patient and family members should take in response to relapse. The plan should also specify the follow-up care. For forensic psychiatric patients, the treatment should be aimed at both controlling the symptoms of the illness and reducing the risk of re-offending.

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<sup>79</sup> Reference is made in this context to a recent judgment of the ECtHR in which the Court found a violation of Articles 8 and 13 of the ECHR on account of a lack of a clear legal framework and safeguards accompanying the permanent video surveillance of prisoners in their cells by CCTV cameras (see [Gorlov and Others v. Russia](#), nos. 27057/06 and 2 others, 2 July 2019).

121. The CPT wishes to emphasise from the outset that its delegation noted positively the enthusiasm of staff working in the occupational therapy units in both psychiatric establishments visited and the efforts they were making to provide patients with various activities.

122. In the *forensic psychiatric hospital*, the occupational therapy unit was open every working day between 9h00 and 12h00 and provided a range of occupational (woodwork, knitting, painting and drawing, production of souvenirs), recreational (reading, listening to music) and sports activities, as well as psychosocial therapy groups and individual counselling. However, only slightly more than half of the patients were involved in an activity. Moreover, no activity was provided to the patients accommodated on the expertise ward.

A general framework for individual treatment plans was being developed in the occupational therapy unit; however, at the time of the visit, no individual treatment plans had been drawn up for the patients and it was not clear whether the envisaged plans would be drawn up by multi-disciplinary teams, involving a range of professionals (psychiatrists, psychologists, occupational therapists, social workers, nurses, etc.).

123. As regards the situation observed in the *civil psychiatric hospital*, it is positive that the majority of patients from the rehabilitation wards were involved in an organised activity provided by the occupational therapy unit (woodwork, knitting, painting and drawing) and could also participate in recreational activities (access to library, playing musical instruments, table tennis, board games, etc.).

However, it remained the case that the treatment of patients on the acute wards was based almost exclusively on pharmacotherapy; with very few exceptions, no organised activity was provided to these patients who thus spent their days within their respective closed units, wandering around, socialising with other inmates, watching TV and at best taking outdoor exercise under totally unsuitable conditions as described above in paragraph 118.

It is commendable that for some six months prior to the visit, the occupational therapy unit had started preparing individual activity plans for the patients. These plans which existed for some 20 patients at the time of the visit were well-structured and contained an initial evaluation of the patients and regular evaluations of their progress. However, psychiatrists and nurses did not participate in the preparation of these plans.

124. In the light of the findings described above, **the CPT recommends that the authorities of Republika Srpska ensure that:**

- **in both establishments visited, the programme of psychosocial rehabilitative activities is further developed and that staff motivate all patients to participate regularly in such activities. In the civil psychiatric hospital, particular attention should be paid to the needs of acute patients and in the forensic psychiatric hospital, consideration should be given to providing psychosocial rehabilitative activities, also in the afternoon. These changes will require strengthening the staff resources (see also paragraph 134);**
- **individual treatment plans are drawn up for all patients, in the light of the remarks set out in paragraph 120. A multi-disciplinary approach to the treatment of patients should be adopted and various categories of clinical staff should meet regularly in order to share information and discuss patients' needs and therapeutic progress;**

- **at least some activities are provided to the patients accommodated on the expertise ward of the forensic psychiatric hospital.**

125. Concerning pharmacotherapy, in both establishments visited, psychotropic medication appeared to be used in appropriate doses that were individualised for different patients and the CPT's delegation did not observe any signs of overmedication. The range and quantity of different substances was generally adequate. However, the range of new generation antipsychotics was somewhat limited in both establishments. **The CPT recommends that the authorities of *Republika Srpska* ensure that in both establishments visited, the range of new generation antipsychotics is broadened to respond better to the individual needs of each patient.**

126. Further, as confirmed by staff, it was not unusual in the civil psychiatric hospital that certain medication required by the somatic state of health of a patient could not be provided by the hospital and patients themselves had to ensure its procurement, usually with the help of their families. **The CPT would like to receive the information from the authorities of *Republika Srpska* on the criteria used for deciding when patients have to procure their own somatic medication.**

127. A number of patients in both establishments were prescribed clozapine (which can have as a side-effect a potentially lethal reduction of white blood cells (granulocytopenia)), without carrying out blood tests on a regular/systematic basis.<sup>80</sup> **The CPT recommends that the authorities of *Republika Srpska* take urgent steps to render regular blood tests mandatory in all psychiatric establishments whenever clozapine is used; staff should be educated about the potentially lethal side effects of clozapine and, in particular, the importance of carrying out regular blood tests.**

128. Patients' individual medical files contained the initial evaluation of the mental state of patients carried out shortly after admission. However, additional clinical observations were noted only very rarely (e.g. once every one to three months), even if, for example, the pharmacological treatment was modified. This is a matter of particular concern on the acute wards of the civil psychiatric hospital where psychiatric follow-up should be more intensive. **The CPT recommends that the necessary steps be taken to ensure that individual medical files in both establishments visited contain an ongoing record of the patients' mental and somatic state of health and of their treatment.**

129. In the forensic psychiatric hospital, the delegation noted the existence of very well-equipped medical rooms (including EEG, ECG, electromyography, ultra-sound machine, defibrillators and several sterilisers, as well as dental and gynaecological chairs) and laboratories (equipped, for example, for general haematology and biochemistry blood tests). However, although this equipment had been available for several years, it had been used very rarely or not at all. This was apparently due to the lack of specialised staff and chemical substances necessary for various laboratory tests. The delegation was informed about the plans to hire a laboratory technician and to open a dental surgery in the near future.

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<sup>80</sup> For example, only one blood test had been carried out for a patient who had been receiving clozapine for four months.

**The CPT would like to receive confirmation that this has now been done.** Reference is made in this context to the shortcomings described in paragraph 127 as regards the urgent need, in both psychiatric establishments visited, to carry out regular blood tests for patients using clozapine.

130. The provision of somatic care did not generally pose a difficulty (see, however, paragraph 126) and patients in both establishments visited benefitted from somatic treatment provided by external specialists.

That said, as regards dental care, according to the records examined by the CPT's delegation, in both establishments visited, there were only some ten consultations between January and June 2019 which appears to be rather low, taking into account the number of patients. Moreover, in the civil psychiatric hospital, the care provided in 2019 was limited to extractions.

**The CPT would like to receive the comments of the authorities of Republika Srpska on this matter.** Reference is made to paragraph 129 as regards the existence of an unused dental surgery in the forensic psychiatric hospital.

## 5. Staff

131. In the *forensic psychiatric hospital*,<sup>81</sup> the medical team consisted of three full-time psychiatrists (including one with a forensic psychiatric qualification), two resident medical doctors specialising in psychiatry, four contracted psychiatrists attending the hospital on a rota basis and covering together one full-time equivalent post, one contracted forensic psychiatrist who attended as needed and a contracted consultant psychiatrist. The morning shift on working days was composed of five psychiatrists; for the rest of the time, there was one psychiatrist on duty in the hospital.

The hospital employed 35 nurses (including four with a university degree) and 17 care workers. In the morning shift (7h00 to 13h00), on the wards accommodating male patients,<sup>82</sup> there were two or three nurses and one care worker who were reinforced by a head nurse on working days. The afternoon and night shifts (13h00 to 19h00 and 19h00 to 07h00) were composed of one or two nurses and one care worker on each ward. On the female ward, there was a head nurse in the morning, together with one care worker, and one nurse for the rest of the time.

The occupational therapy unit was composed of four occupational therapists (including the head of the unit), a speech therapist and a sports coach. These professionals, however, were present only on the morning shift during working days (see also paragraph 122).

The hospital also employed four full-time psychologists who, however, were exclusively involved in psychological testing of patients (rather than providing therapy as a part of a multi-disciplinary team).

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<sup>81</sup> There were no vacant posts at the time of the visit.

<sup>82</sup> At the time of the visit, each ward for male patients was accommodating some 30 patients. There were a total of nine female patients.

**The CPT recommends that, as a matter of priority, the occupational therapy unit be reinforced** (see also paragraph 122 and the recommendation made in paragraph 124 as regards the programme of psychosocial rehabilitative activities). Further, **the Committee recommends that the role of psychologists be reviewed to ensure that they are integrated in multi-disciplinary teams providing treatment and care to patients** (see also the recommendation made in paragraph 124 concerning the adoption of a multi-disciplinary approach). Moreover, **in the CPT's view, it would be desirable to increase the psychiatric input in the establishment.**

132. The forensic psychiatric hospital also employed 14 security staff members<sup>83</sup> who were primarily responsible for guarding the perimeter of the establishment and entrance to the hospital building. In theory, they could intervene on the wards in the case of emergency (clinical staff were equipped with panic buttons) but in practice, this rarely happened and according to the information provided by staff and the patients alike, their mere appearance on the ward had a sufficient effect.

That being said, at the entrance to the expertise ward, there were constantly two judicial police officers who were equipped with firearms, handcuffs and pepper spray. This is a matter of serious concern to the CPT.

The Committee notes that the patients accommodated on the expertise ward had the formal status of remand prisoners. However, this in itself cannot justify the presence of firearms. The CPT has repeatedly emphasised that the carrying of firearms by staff who are in direct contact with prisoners is an undesirable and dangerous practice, which could lead to high-risk situations for both prisoners and staff. In this respect, reference should also be made to Rule 69.1 of the European Prison Rules which states that "except in an operational emergency, prison staff shall not carry lethal weapons within the prison perimeter".<sup>84</sup> Indeed, these considerations apply with even greater force in a secure psychiatric environment.

**The CPT recommends that the authorities of *Republika Srpska* terminate the current practice by judicial police officers of the carrying of firearms on the expertise ward of the forensic psychiatric hospital.**

133. Upon their admission to the forensic psychiatric hospital and then routinely two to three times per month, all patients (whether civil involuntary or forensic) were strip searched by health-care staff. The strip-searches took place in a dedicated room without CCTV coverage and patients, two at a time, in view of each other, were asked to strip fully naked and their clothes were searched.

The CPT considers that a strip-search is a very intrusive and potentially degrading measure; resort to this measure should be based on an individual risk assessment and subject to rigorous criteria and supervision and be carried out in a manner respectful of human dignity. Strip-searches should not be a routine measure, in particular within a hospital setting. Further, every reasonable effort should be made to minimise embarrassment; persons who are searched should normally not be required to remove all their clothes at the same time, e.g. a person should be allowed to remove clothing above the waist and put the clothes back on before removing further clothing. Further, patients should never be required to strip naked in front of other patients (or staff of the opposite sex). In addition, the involvement of health-care staff who act as the treating staff of a particular patient in security related issues concerning that patient should be avoided, in the interest of safeguarding the therapeutic relationship between the patient concerned and the health-care staff.

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<sup>83</sup> These staff members were not equipped with any special means (such as handcuffs, pepper spray and batons) and would only use manual control if necessary.

<sup>84</sup> Indeed, in most Council of Europe States, the carrying of firearms within prison premises is generally prohibited.



**The CPT recommends that the authorities of *Republika Srpska* ensure that the arrangements concerning the carrying out of strip-searches of patients at the Special Hospital for Forensic Psychiatry in Sokolac are urgently reviewed, in the light of the above-mentioned principles.**

**Further, the CPT has serious reservations about strip-searching civil involuntary patients and would like to receive the comments of the authorities of *Republika Srpska* on this issue.**

134. In the *civil psychiatric hospital*, the health-care team consisted of eight full-time medical doctors (including four psychiatrists, two neuro-psychiatrists and two doctors specialising in psychiatry) and 46 nurses (including the head nurse of the hospital and four head nurses of the clinical wards).<sup>85</sup> Medical doctors worked between 07h00 and 13h00 every working day; the rest of the time, there was one duty doctor for the whole hospital. Three posts of medical doctors were vacant at the time of the visit.

Regrettably, the presence of nurses, which had repeatedly given rise to concerns in the past, remained unsatisfactory. There were two nurses on each acute ward and one nurse on each rehabilitation ward, who were reinforced by a head nurse per ward on working days during the morning shift.<sup>86</sup> As noted in the past, in the CPT's opinion, such low staffing levels are clearly insufficient to provide adequate care, assistance and supervision and to ensure a safe environment for patients and staff alike.

As regards other professional staff, the situation remained similar to that observed in 2011. The hospital employed three psychologists, two social workers and four members of staff in the occupational therapy unit (an art-therapist, a special educator and two occupational therapy support staff). As noted in the report on the 2011 visit, the CPT considers that there is a clear need for more professional staff qualified to provide therapeutic activities and other forms of psychosocial care.

Moreover, as in the forensic psychiatric hospital, psychologists were almost exclusively involved in psychological testing of patients (rather than providing therapy as a part of a multi-disciplinary team).

**In the light of the foregoing, the CPT reiterates its recommendation that staff resources in the civil psychiatric hospital be reviewed. First priority should be given to increasing the number of nurses and staff providing psychosocial rehabilitative activities** (reference is made to paragraph 123 and the recommendation made in paragraph 124 as regards the programme of psychosocial rehabilitative activities). **Further, steps should be taken to fill in the three vacant posts of psychiatrists. Finally, the Committee recommends that the role of psychologists be reviewed to ensure that they are integrated in multi-disciplinary teams providing treatment and care to patients.**

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<sup>85</sup> There were no care workers/auxiliary nurses employed by the hospital.

<sup>86</sup> At the time of the visit, each male ward accommodated 34 patients, the female acute ward had 21 and the female rehabilitation ward had 27 patients.

## 6. Means of restraint

135. In many respects, the findings with regard to the use of means of restraint were similar in both establishments.

Patients could be fixated to a bed with specially designed magnetic belts (4-point fixation), sometimes in combination with chemical restraint. In line with the relevant national legislation,<sup>87</sup> recourse to means of restraint was ordered by a medical doctor. The use of restraint did not appear to be excessive<sup>88</sup> and the duration of fixation usually did not exceed two hours (or there was a break after two hours and the need for further fixation was re-assessed). The use of belts was recorded in a dedicated register.

That said, the use of chemical restraint was only recorded in the patients' individual medical files or in the nurses' logbook. Moreover, in the civil psychiatric hospital, patients were routinely restrained in their own rooms in view of other patients, were not under constant supervision by a member of the health-care staff<sup>89</sup> and fellow patients were sometimes allowed to help staff restraining other patients. In the forensic psychiatric hospital, patients fixated in a dedicated room located on ward 1A could be seen through a window by other patients taking outdoor exercise.

136. The CPT wishes to underline<sup>90</sup> that every psychiatric establishment should have a comprehensive, carefully developed policy on restraint. The involvement and support of both staff and management in elaborating the policy is essential. Such a policy should be aimed at preventing as far as possible the resort to means of restraint and should make clear which means of restraint may be used, under what circumstances they may be applied, the practical means of their application, the supervision required and the action to be taken once the measure is terminated. The policy should also contain sections on other important issues such as: staff training; recording; internal and external reporting mechanisms; debriefing; and complaints procedures. Further, patients should be provided with relevant information on the establishment's restraint policy.

Patients should not be subjected to mechanical restraint in view of other patients (unless the patient explicitly expresses a wish to remain in the company of a certain fellow patient); visits by other patients should only take place with the express consent of the restrained patient. It is wholly inappropriate for staff to be assisted by other patients when applying means of restraint to a patient.

The duration of the use of means of mechanical restraint (and seclusion) should be for the shortest possible time (usually minutes rather than hours) and should always be terminated when the underlying reasons for their use have ceased.

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<sup>87</sup> The use of means of restraint is regulated by the 2004 Law on the protection of persons with mental disorders. For more details, see the report on the CPT's 2011 visit to the country (doc. [CPT/Inf \(2012\) 15](#), paragraph 101).

<sup>88</sup> For example, between January and June 2019, fixation was used 21 times (over six episodes in relation to five patients) on the male acute ward 1A. There were no recent cases of mechanical restraint on wards 2A (female patients) and 1B (male rehabilitation ward) of the forensic psychiatric hospital and on the two rehabilitation wards of the civil psychiatric hospital.

<sup>89</sup> In the forensic psychiatric hospital, patients were fixated in a dedicated room and were supervised by staff through a window from the adjacent nurses' office.

<sup>90</sup> A more comprehensive overview of the principles which, in the CPT's, view should be respected when resort is had to means of restraint can be found in document "Means of restraint in psychiatric establishments for adults (Revised CPT standards)", [doc. CPT/Inf \(2017\) 6](#).

Every patient who is subjected to mechanical restraint should be subjected to continuous supervision – a qualified member of staff should be permanently present in the room in order to maintain a therapeutic alliance with the patient and provide him/her with assistance. Clearly, video surveillance cannot replace continuous staff presence.

Once the means of restraint have been removed, it is essential that a debriefing of the patient take place, to explain the reasons for the restraint, reduce the psychological trauma of the experience and restore the doctor-patient relationship. This also provides an opportunity for the patient, together with staff, to find alternative means to maintain control over him-/herself, thereby possibly preventing future eruptions of violence and subsequent restraint.

A specific register should be established to record all instances of recourse to means of restraint (including chemical restraint). This should supplement the records contained within the patient's personal medical file. 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; and an account of any injuries sustained by patients or staff. Patients should be entitled to attach comments to the register and should be informed of this entitlement; at their request, they should receive a copy of the full entry.

**The CPT recommends that that these precepts be effectively implemented in practice at the Special Hospital for Forensic Psychiatry in Sokolac and at the Special Hospital for Psychiatry in Sokolac, as well as, as appropriate, in other psychiatric establishments.**

**In particular, steps should be taken in both establishments visited to ensure that:**

- **all instances of recourse to means of restraint (including chemical restraint) are registered in a dedicated register;**
- **patients subjected to mechanical restraint are subjected to continuous, direct and personal supervision by a qualified member of staff and are not mechanically restrained in view of other patients;**
- **staff are never assisted by other patients when applying means of restraint to a patient.**

## 7. Safeguards

### a. placement and review

137. The basic legal framework governing the civil involuntary placement<sup>91</sup> remained unchanged since previous visits.<sup>92</sup> It should be recalled that a person with a severe mental disorder who endangers his/her own life, health or safety, or the life, health or safety of others, and who is admitted to a psychiatric establishment, must be immediately examined by a psychiatrist. If the latter determines that involuntary placement is necessary, the relevant court must be notified within 24 hours.

The court should appoint an *ex officio* lawyer to the person concerned and obtain a written opinion from a psychiatrist independent of the institution in which the person is placed. The court is then obliged to decide within three days whether continued involuntary placement is necessary.<sup>93</sup> The involuntary hospitalisation may not last for more than six months in the RS and one year in the FBiH and may be extended for the same time period if involuntary hospitalisation is still necessary. The same procedure as described above applies to the extension of the placement and in the case that a voluntarily admitted patient later withdraws his/her consent to hospitalisation.

138. The examination of the relevant files *in the forensic psychiatric hospital* showed that, in line with the relevant legislation, patients were examined by an independent expert prior to their involuntary placement by the court (or its extension), were represented by a lawyer, in most cases appointed *ex officio*, in the court proceedings and the court decisions were delivered to them.

However, patients were as a rule not heard in person by the court and were not met by their lawyers to consult the case. Their legal representation thus appeared to be a mere formality. Moreover, as was the case in the past, the statutory time limits were not always fully respected in practice. The information gathered during the visit indicates that on several occasions, courts needed to be reminded by the forensic psychiatric hospital that a deadline for an extension of an involuntary placement was approaching or had already expired.

**The CPT recommends that the authorities of *Republika Srpska* and the Federation of Bosnia and Herzegovina, as well as the relevant Cantonal authorities, take the necessary steps to ensure that the courts render decisions on involuntary placement and its extension within the time limits set out by the relevant legislation.**

**Further, the Committee recommends that the necessary steps be taken by the relevant authorities to ensure that patients have the effective right to be heard in person by the court during the procedures on their involuntary placement or its extension, as well as during the appeals procedures<sup>94</sup> and that they have a real opportunity to consult with their *ex officio* lawyer.**

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<sup>91</sup> The placement is regulated by two separate Laws on the protection of persons with mental disorders: the *Republika Srpska*'s 2004 *Zakon o zaštiti lica sa mentalnim poremećajima*, and the FBiH's 2001 *Zakon o zaštiti osoba s duševnim smetnjama*. The procedures, however, are virtually identical.

<sup>92</sup> For more details, see in particular the report on the 2015 visit (doc. [CPT/Inf \(2016\) 17](#), paragraph 131) and the report on the 2004 visit (doc. [CPT/Inf \(2016\) 2](#), paragraph 27).

<sup>93</sup> An appeal may be lodged against the decision within eight days and the appellate court must decide within three days.

<sup>94</sup> The CPT considers that, for example, the holding of a court hearing in hospital – making possible direct contact

139. As regards the legal framework in the FBiH and as noted in the previous visit report, the CPT considers that the period of involuntary placement of one year is too long. **The law should be amended and shorter time periods introduced.**

140. As regards forensic psychiatric placement, a court may order the security measure of compulsory mental health treatment and confinement in a health care institution in respect of a person who has perpetrated a “criminal offence” in a state of considerably diminished mental capacity and there is a danger of commission of further offences.

The examination of patients’ files in the *forensic psychiatric hospital* showed that in practice, courts imposed the measure either for an indefinite period or for a fixed period of, usually, six months. In any case, the need for the duration of the measure was regularly *ex officio* reviewed by the courts (usually after a period of time between six months and one year). Patients were heard by the court in the proceedings on the imposition or extension of the measure, were represented by a lawyer and received the relevant court decisions and could lodge an appeal against the first instance decision.

The delegation was informed that in the context of the review of the measure, the court may request a psychiatric opinion independent of the establishment where the patients is being placed. However, none of the files of forensic patients examined by the delegation contained any such independent opinion.

The CPT considers that commissioning, at reasonable intervals, in the context of the review of the measure of compulsory hospitalisation in a psychiatric establishment, 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. **The CPT would like to receive the comments of the authorities of Bosnia and Herzegovina on this issue.**

141. As noted already in paragraph 106, all patients in the *civil psychiatric hospital* were formally regarded as voluntary and upon their admission, were asked to sign consent to their hospitalisation (see also paragraph 142).

However, in practice, approximately half of the patients were accommodated on closed acute wards which were permanently locked and patients took their exercise in enclosed cage-like areas to prevent escape. Moreover, none of the patients, regardless of on which ward they were accommodated, was allowed to leave the establishment of his/her own free will. If a patient “escaped”, the local police would be contacted to search for the patient and bring him/her back.<sup>95</sup>

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between all the parties concerned (i.e. the patient, the doctor and the judge) would enable the judge not only to hear any explanations that the patient and doctor might have, but also to convey his or her decision directly to the patient (with the assistance of the doctor if necessary).

<sup>95</sup> The social work centre in the place of the patient’s origin and his/her family would also be informed.

At the time of the visit, 20 patients were deprived of their legal capacity by a court and had a guardian appointed. In their cases, the consent to hospitalisation was signed by their guardian and they were consequently regarded as voluntary. As far as the delegation was informed, there was no procedure to review the need for their continued placement in the establishment, nor a procedure which would allow them to request discharge from the establishment without the consent of their guardian.<sup>96</sup>

Nonetheless, in the course of the visit, the delegation met several patients who disapproved of their stay in the hospital and expressed their will to leave the establishment.

It follows that these patients were *de facto* deprived of their liberty without benefitting from any appropriate safeguards.

**The CPT recommends that if the provision of in-patient care to a voluntary patient who wishes to leave the hospital is considered necessary, the involuntary civil placement procedure provided by the law should be fully applied. Further, the same procedure should be 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.**

b. safeguards during placement

142. According to the information provided by staff in the *forensic psychiatric hospital*, some two to three months prior to the visit, a new practice had been introduced to request all newly-admitted patients, regardless of whether they had been subjected to the forensic or civil involuntary placement, to sign a consent to treatment form. Indeed, some of the patients' files examined by the delegation now contained a signed consent form. The CPT notes positively this development.

In the *civil psychiatric hospital*, it remained the case that consent to treatment from voluntary patients was sought upon admission and was included in the consent form on placement. The form also informed the patients of the possibility to withdraw their consent at any moment.

However, in both establishments, consent to treatment was sought at a very early stage of the hospitalisation, before the clinical indications for a particular form of treatment were established, and by signing the form, patients gave a blanket agreement to undergo any treatment regarded necessary by the treating doctor. There was no documentation to demonstrate that patients had received detailed information on their diagnoses, the treatment proposed and the possible side effects. Consequently, such consent cannot qualify as "free and informed".

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<sup>96</sup> The CPT notes in this context that the ECtHR 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 ECHR, 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).

Moreover, the delegation could not obtain a clear picture as to the procedure to be followed if a patient refused to sign the consent to treatment.

Further, in the forensic psychiatric hospital, the consent form did not contain any information as to the possibility to withdraw the consent at a later stage.

143. The CPT reiterates 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>97</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, 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 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.

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 establishment's doctors (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 *Republika Srpska* take the necessary steps to ensure that the above-mentioned precepts are effectively implemented in practice at the Special Hospital for Forensic Psychiatry in Sokolac and at the Special Hospital for Psychiatry in Sokolac, as well as, as appropriate, in other psychiatric establishments.**

144. As regards patients' contact with the outside world, in the *forensic psychiatric hospital*, patients could receive visits every day except Tuesday and Thursday and, three times a week, had access to their mobile phones which had to be deposited with staff. In addition, three times a week, they could use payphones located on the wards. In the *civil psychiatric hospital*, patients could get visits every day (07h00 to 19h00) and on the open rehabilitation wards could keep their mobile phones. On the acute closed wards, patients' mobile phones were deposited with staff but patients were allowed to use them upon request. There were also pay phones available to the patients which were located in the park within the hospital compound.

145. It is positive that on each ward in both establishments, there were locked boxes in which patients could place their internal complaints. The CPT notes that upon admission, patients were provided with information leaflets which contained some very basic information about the establishments and, in the forensic psychiatric hospital, about the possibility to complain to outside bodies. Patients also received an oral explanation of the house rules.

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<sup>97</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.

However, the CPT considers that the information brochure to be given to patients (and their families) on admission to a psychiatric establishment should set out the facility's routine and patients' rights – including information on legal assistance, review of placement (and the patient's right to challenge this), consent to treatment and complaints procedures (including with clearly designated outside bodies). This was still not the case.

**The CPT recommends that the authorities of *Republika Srpska* ensure that the existing information materials at both Special Hospitals in Sokolac, as well as, as appropriate, in other psychiatric establishments, are revised and updated to ensure that they provide comprehensive information, in the light of the above remarks.**

146. Concerning inspections, according to the information gathered during the visit, the Commission for the protection of persons with mental disorders envisaged by the 2004 Law on the protection of persons with mental disorders was now operational.<sup>98</sup> **The CPT would like to receive further information on its functioning (in particular as regards its precise mandate, working methods, composition and places so far visited).**

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<sup>98</sup> At the time of the 2011 visit, the Commission had not yet been established.



## **D. Social welfare establishments**

### **1. Preliminary remarks**

147. The CPT's delegation visited for the first time the Stolac Social Care Home located in the Herzegovina-Neretva Canton of the Federation of Bosnia and Herzegovina, some 40 km from Mostar. The home operates under the authority of the canton. In the past, the facility was used as a juvenile prison before being abandoned until 2008, when a decision was taken to refurbish the premises and to establish a social care home; the first residents were admitted in 2013.

At the time of the visit, with an official capacity of 155 beds, the home was accommodating 160 adult residents between the ages of 21 and 90 (approximately half of them were women).<sup>99</sup> All the residents suffered from a mental health problem, the most usual diagnoses being schizophrenia, learning disability and dementia. Approximately 70 residents had been deprived of their legal capacity and had had a guardian appointed.<sup>100</sup> The length of stay of the residents varied. Approximately half of the residents arrived from other social care establishments when the home in Stolac was opened in 2013.<sup>101</sup> At the time of the visit, all residents were formally regarded as voluntary (see, however, paragraph 168).

Residents were accommodated in two separate two-storey buildings (one primarily for residents with a learning disability, the other primarily for those with schizophrenia<sup>102</sup>). Male and female residents were accommodated in separate rooms.

148. The delegation was informed that the first phase of de-institutionalisation of social care residents, based on a 2014-2020 Strategy, which focused on seeking alternative models of accommodation and the provision of services in the community, should bear fruit in 2020. In this context, a draft Law on social protection services was expected to be submitted to the Parliament of the FBiH by the end of 2019. The draft law sets out new standards for the functioning of social care institutions and envisages the establishing of day centres and support services for social care users.

**The CPT would like to be informed of the outcome of the first phase of de-institutionalisation in the field of social services and of further plans by the authorities of the Federation of Bosnia and Herzegovina in this area. In addition, the Committee would like to receive more detailed information about the new legislation.**

149. In the social care home visited, the CPT's delegation was surprised to be informed that residents whose stay in the social care home was financed with public funds (as opposed to some 22 "private residents" who covered the cost of their stay themselves) had to transfer, prior to their admission to the home, their real estate property to the canton. In the CPT's view, it is very clear that

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<sup>99</sup> Once the refurbishment of an additional accommodation building has been completed, the capacity of the establishment will increase to 250 beds.

<sup>100</sup> Usually a family member or an employee of the local social work centre depending on the resident's domicile. It should be noted that the home or its staff were never appointed the guardian of a resident.

<sup>101</sup> At the time of the visit, the residents accommodated in the home originated in three cantons: Herzeg-Bosnia, Herzegovina-Neretva and West Herzegovina.

<sup>102</sup> This building also comprised a small section for bed-ridden residents and residents with reduced mobility on the ground floor.

such an arrangement significantly limits the possibility of residents ever to be discharged from the home and to return to the community. **The CPT would like to receive the comments of the authorities of the Federation of Bosnia and Herzegovina on this issue and to be informed that in the event of a person being discharged within a relatively short time after their admission whether there is a means whereby the residue of their estate can be returned to the person concerned.**

## **2. Ill-treatment**

150. The CPT's delegation received no credible allegations of ill-treatment of residents by staff. On the contrary, the vast majority of residents interviewed by the delegation commented positively on staff and their caring and accommodating attitude. The delegation observed that the atmosphere in the establishment was relaxed and that residents frequently and easily entered into contact with staff.

151. Episodes of inter-resident violence occurred occasionally, in the form of verbal and minor physical conflicts between residents. If staff saw these conflicts, they intervened immediately and adequately. However, due to the low staffing levels in the establishment, the staff were not always aware of all the conflicts taking place and, as the delegation observed for themselves, were thus not always in a position to intervene (see also paragraph 157).

## **3. Living conditions**

152. As noted above, prior to its opening in 2013, the establishment had been refurbished and, overall, the material conditions offered to residents were adequate. Residents' rooms and other premises seen by the delegation were generally in a good state of repair and hygiene, were sufficiently lit and ventilated and the delegation received no complaints from the residents with respect to heating during winter months.

That said, the delegation noted some signs of wear and tear and damage (e.g. damaged laminated flooring and doors). Moreover, despite the presence of a few pictures on the walls in the corridors and communal rooms, the premises were rather austere and impersonal.

153. The home offered two types of accommodation for residents: small living units composed of two rooms (each measuring some 15 m<sup>2</sup> and containing three beds), a small entrance corridor and a fully partitioned sanitary annexe (containing a toilet and a shower); or rooms (some of which were equipped with a fully partitioned sanitary annexe) which measured between 21 and 23 m<sup>2</sup> (excluding the sanitary annexes) and accommodated three to five residents.

The rooms were equipped with beds and bedside tables (and sometimes a table and a few chairs) and most residents had a personal locker and were allowed to keep some personal belongings (including a TV and/or a radio). Residents had daily access to showers.

However, the delegation noted that in several rooms, pillow cases and sheets/blanket cases were missing and there were not enough bedside tables for all residents.

154. The majority of residents<sup>103</sup> ate their meals in a canteen in a separate building where the kitchen was also located. These premises were in a very good state of repair and cleanliness. However, residents were only given a spoon with which to eat their meals. In the CPT's view, this does not contribute to maintaining their skills and dignity.

155. In the light of the foregoing, **the CPT recommends that the authorities of the Federation of Bosnia and Herzegovina and the relevant authorities of the Herzegovina-Neretva Canton take the necessary steps to ensure that:**

- **all the premises of the Social Care Home in Stolac are maintained in a good state of repair and are suitably decorated and personalised to create a homely environment for the residents;**
- **all residents' rooms are suitably equipped, including with bedside tables commensurate with the number of residents and full bedding for each resident;**
- **residents are provided with proper cutlery to eat their meals and are encouraged and, if necessary, assisted by staff to use it.**

156. As regards access to fresh air, throughout the day residents could go freely outside to the large courtyard between the accommodation buildings, which comprised lawns and benches shaded by trees.

#### **4. Staff and treatment**

157. As regards health-care staff, a general practitioner from the local primary health-care centre visited the establishment for two to three hours twice a week and a psychiatrist from the Mostar University Hospital once a week or once every two weeks. The home employed ten nurses (including a head nurse)<sup>104</sup> and 28 care workers. There were also two full-time psychologists and a physiotherapist who attended every working day for three hours.<sup>105</sup>

For the whole establishment,<sup>106</sup> there were two nurses and six care workers at all times, who were reinforced by an additional nurse every day between 7 a.m. and 3 p.m. and a head nurse during the same hours on working days.

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<sup>103</sup> Bed-ridden residents were served meals in their rooms or in a communal area located on their ward.

<sup>104</sup> Three additional posts of nurses were vacant.

<sup>105</sup> As a replacement for a full-time physiotherapist who was on maternity leave at the time of the visit.

<sup>106</sup> It is recalled that at the time of the visit, the home accommodated 160 residents.

The team responsible for the provision of psycho-social rehabilitative activities to residents comprised five social workers and five members of staff in charge of various workshops. They worked from Monday to Friday and there were usually four to five of them between 07h00 and 15h00 and one between 15h00 and 18h00.

The CPT considers that, despite the efforts made by staff, the aforementioned staffing levels and the presence of staff in each shift only allowed the staff to take care of the basic needs of the residents. Increasing the staffing levels will in particular facilitate more efficient prevention of and immediate reaction to instances of inter-resident violence (see paragraph 151), enable the drawing up of individual care plans for each resident and the provision of a broader range of psycho-social rehabilitative activities and will make it possible to ensure constant supervision by staff of residents subjected to mechanical restraint (see paragraph 162). Moreover, increasing the presence of a psychiatrist will enable him/her to participate in the elaboration of the aforementioned individual care plans (thus ensuring a truly multi-disciplinary approach). Further, a number of residents with neurological conditions would benefit from an increased presence of a physiotherapist.

**The CPT recommends that the staffing levels of the various categories of staff in the Social Care Home in Stolac be reviewed and increased, in the light of the above remarks.**

158. The CPT notes positively that the team responsible for the provision of psycho-social rehabilitative activities strove to draw up care plans for the residents and that approximately half of the residents participated, to a varying degree, in an organised activity (music and writing workshops, painting, handicraft, sports, accompanied excursions, speaking groups) or worked in the garden or helped with cleaning.<sup>107</sup> It is also positive that bed-ridden residents and residents with reduced mobility were involved in these activities and that staff made efforts to motivate residents to participate.

However, for at least half of the residents, there was no organised activity and for some others, the offer was rather limited. Consequently, they spent most of the day wandering around or at best watching TV/listening to the radio or playing cards/board games with other residents.

Moreover, health-care staff were not involved in the drawing up of the aforementioned care plans.

The CPT wishes to emphasise that the care of residents should imply 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.

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<sup>107</sup> These residents (20-25 at the time of the visit) received a small remuneration for their work.

**The CPT recommends that the authorities of the Federation of Bosnia and Herzegovina and the relevant authorities of the Herzegovina-Neretva Canton take the necessary steps to ensure that these precepts are effectively implemented in practice in the Social Care Home in Stolac. In particular, the offer of psychosocial rehabilitative activities should be further developed; in the CPT's view, as an absolute minimum, every resident should be offered the opportunity to participate in one organised activity every day.**

159. As regards pharmacotherapy, psychotropic medication appeared to be used in appropriate doses and individualised for different residents.

However, as in the psychiatric hospitals visited, several residents were prescribed clozapine (which can have as a side-effect a potentially lethal reduction of white blood cells (granulocytopenia)), without carrying out blood tests on a regular/systematic basis. **The CPT recommends that the authorities of the Federation of Bosnia and Herzegovina and the relevant authorities of the Herzegovina-Neretva Canton take urgent steps to render regular blood tests mandatory in all social care establishments whenever clozapine is used; staff should be educated about the potentially lethal side effects of clozapine and, in particular, the importance of carrying out regular blood tests.**

160. The provision of somatic care to the residents did not pose a major difficulty. Primary health-care was provided either by the general practitioner visiting the establishment or by the nearby primary health-care centre in Stolac (which also ensured continuous emergency services). Specialised care was usually provided in the University Hospital in Mostar.

161. In 2018, seven residents of the social care home died (five in the home and two after having been hospitalised in an outside facility) and in the first five months of 2019, there were five deaths (two in the home and three in a hospital).

As far as the delegation could ascertain, in none of these cases has an autopsy been carried out. Moreover, in the case of residents who died in a hospital, the cause of death was not communicated back to the social care home.

The CPT considers that when a resident in a social care home dies unexpectedly, an autopsy should follow, unless a medical authority independent of the establishment indicates that an autopsy is unnecessary. Further, when a social care home resident dies after having been hospitalised in an outside health-care facility, the clinical causes of his/her death (and if an autopsy is performed, its conclusions) should be systematically communicated to the social care home.

**The CPT recommends that the authorities of the Federation of Bosnia and Herzegovina and the relevant authorities of the Herzegovina-Neretva Canton take steps to ensure that these precepts are effectively implemented in practice for the Social Care Home in Stolac.**

## 5. Means of restraint

162. The means of restraint used in the social care home included fixation to a bed with magnetic straps (5-point fixation) and chemical restraint. Resort to restraint was ordered by a psychiatrist or, if he or she was unavailable, by a general practitioner. The information gathered through interviews with staff and residents indicates that resort to restraint was very rare.

However, the use of fixation was not recorded in any document and resort to chemical restraint was only noted in the nurses' logbook. Moreover, residents were mechanically restrained in their own rooms, in view of other residents, and were not placed under constant supervision throughout the duration of the fixation by a member of staff.

The precepts that should in the CPT's view be respected whenever resort is had to means of restraint, whether in a psychiatric setting or a social care establishment, have already been set out in detail in paragraph 136 of this report. **The CPT recommends that the authorities of the Federation of Bosnia and Herzegovina and the relevant authorities of the Herzegovina-Neretva Canton take the necessary steps to ensure that these precepts are effectively implemented in practice in the Social Care Home in Stolac. In particular, every resort to means of restraint should be recorded in a dedicated register, residents should not be restrained in view of other residents and should be under the continuous supervision by a qualified member of staff throughout the duration of the measure.**

163. More generally, according to the information gathered during the visit, there was no legal basis for the application of means of restraint in social care establishments in the Federation of Bosnia and Herzegovina. **The CPT would like to receive the comments of the authorities of Bosnia and Herzegovina on this matter.**

## 6. Safeguards

164. In its previous visit reports, the CPT repeatedly expressed its concern about a lack of appropriate safeguards accompanying the involuntary placement, or a placement at the instigation of a guardian, of residents in social care homes in Bosnia and Herzegovina. In particular, the Committee pointed to the absence of a judicial procedure to review such placements.

It is noteworthy in this context that, in 2015, the ECtHR<sup>108</sup> found a violation of Article 5, paragraph 1, of the ECHR (right to liberty and security) in a case concerning the involuntary placement in a social care home in Bosnia and Herzegovina of the applicants who complained that they were held there against their will and could not obtain release. The Court concluded that the social care legislation in the FBiH did not contain an involuntary placement procedure in social care establishments and that the applicants had been admitted under the relevant provisions of the Law on the protection of persons with mental disorders which had required that a court be notified of the involuntary admission. This had not been done in the case of the applicants.

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<sup>108</sup> See [Hadžimejlić and Others v. Bosnia and Herzegovina](#), nos. 3427/13, 74569/13, and 7157/14, 3 November 2015.

165. According to the information gathered by the delegation during the 2019 visit, the relevant social work centre according to the domicile of the would-be resident submitted to the home an application for placement, accompanied by medical records. The application was then examined in the home (including by a general practitioner and a psychiatrist) and if it was accepted, a contract was signed between the social work centre and the home.<sup>109</sup>

No regular review of the need for the continued placement of the resident in the social care home took place and for a resident to be discharged from the home, an approval of the relevant social work centre was required and, in the case of legally incapacitated residents,<sup>110</sup> also that of their guardian.<sup>111</sup>

166. In the case of “private residents” (i.e. those who financed their stay themselves or, usually, through their families),<sup>112</sup> the social work centres were not involved. Instead, the contract was signed by the resident’s guardian (if the resident was legally incapacitated) or a family member (if the resident had legal capacity)<sup>113</sup> and the residents had to acquire the consent of the guardian/family to leave the establishment.

167. Some six months prior to the visit, in the wake of the above-mentioned judgment of the ECtHR, the Ministry of Labour and Social Affairs of the FBiH tasked social work centres to review the situation of individual residents of social care homes and to ensure that they provide a written consent to their placement. This requirement also applied to all new placements in social care establishments. According to the information provided to the delegation, only two of 11 centres which were placing residents in the social care home visited had completed this task by the time of the CPT’s visit.

168. Nevertheless, as regards the practical arrangements observed by the delegation in the establishment visited, the entrance gate to the compound was locked and only half of the residents were allowed to leave the premises and go to the town if they so wished.<sup>114</sup> If residents wanted to spend a weekend or “leave” from the establishment with their family, the relevant social work centre had to agree to it. Moreover, as described above, discharge from the establishment was only possible with the approval of the social work centre, the guardian or a family member.

At the same time, the delegation met several residents who indicated that they did not want to stay in the social care home.

The CPT considers that these residents should be regarded as *de facto* deprived of their liberty. However, they did not benefit from any appropriate safeguards. All residents, whether or not they had their legal capacity, whether or not they had a guardian appointed and regardless of how their

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<sup>109</sup> The contract was signed once the social work centre had obtained consent from the relevant Cantonal authorities to co-finance the stay of the resident in the establishment.

<sup>110</sup> It is recalled that some 70 residents have been deprived of their legal capacity.

<sup>111</sup> The contract signed between the social work centre and the social care home concerning the placement of the resident explicitly stated that the discharge from the home may be requested by the centre or the home (i.e., not by the resident him/herself).

<sup>112</sup> There were 22 private residents in the establishment at the time of the visit.

<sup>113</sup> The delegation was informed that the signature of a family member was required given that, in reality, the residents did not have “capacity to conclude a contract”.

<sup>114</sup> Whether or not a resident will be allowed to go to the town was decided by a social worker together with a psychologist.

stay in the establishment was financed, were formally regarded as voluntary and there was still no procedure through which they could challenge the lawfulness of their placement in the establishment before a court.

169. The CPT considers that involuntary placement and stay of residents (including situations in which the restrictions imposed amount to *de facto* deprivation of liberty)<sup>115</sup> in social care establishments should be regulated by law and accompanied by appropriate safeguards. In particular, placement must be made in the light of an objective medical assessment, including of a psychiatric nature. Further, all residents who are involuntarily placed in this type of establishment (including situations in which the restrictions imposed amount to *de facto* deprivation of liberty), whether or not they have a legal guardian, must enjoy 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 and to be represented by a lawyer. The Committee also wishes to underline that, if it is considered that a given resident, who has been voluntarily admitted and who expresses a wish to leave the establishment, still requires care to be provided in the establishment, then the involuntary placement procedure provided by the law should be fully applied.

**The CPT recommends that the authorities of the Federation of Bosnia and Herzegovina put in place a clear and comprehensive legal framework governing the involuntary placement and stay of residents (including situations in which the restrictions imposed amount to *de facto* deprivation of liberty) in social care homes, in the light of the preceding remarks.**

## 7. Other issues

170. Arrangements concerning residents' contact with the outside world were satisfactory. Residents were allowed to keep their mobile phones, those without them could make phone calls from the nurses' office and they could receive visits throughout the day.

171. Upon their admission, residents were verbally informed of the establishment's routine. However, as far as the delegation could ascertain, no written information was provided either to them, or to their guardians/families.

**The CPT recommends that an information brochure setting out the establishment's routine, the rules for admission and discharge, residents' rights and the possibilities to lodge formal complaints, on a confidential basis, with a clearly designated outside body, be developed and issued to each resident, as well as to their families and/or guardians, upon admission to the establishment. Any resident unable to understand this brochure should receive appropriate assistance.**

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<sup>115</sup> The CPT notes in this context that the ECtHR 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 ECHR, 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).



**APPENDIX I:**

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

Law enforcement establishments

*Federation of Bosnia and Herzegovina (FBiH)*

- Detention Unit of the Federal Ministry of the Interior, Sarajevo
- Police Station "Dom Policije" of the Federal Ministry of the Interior, Sarajevo
- Headquarters of the Ministry of the Interior of the Canton of Sarajevo
- Department for Organised Crime, Sexual Crimes and War Crimes of the Criminal Police, Sarajevo Cantonal Police Headquarters
- Sarajevo Judicial Police Headquarters
- Detention Unit located in the premises of Novo Sarajevo Police Station (Canton of Sarajevo)
- Sarajevo Centar Police Station (Canton of Sarajevo)
- Hadžići Police Station (Canton of Sarajevo)
- Mostar Centar Police Station (Canton of Herzegovina-Neretva)
- Stolac Police Station (Canton of Herzegovina-Neretva)

*Republika Srpska (RS)*

- Banja Luka Police Department
- Detention unit of the Banja Luka District Prosecutor's Office
- Directorate for Organised Crime and Serious Crime of the Ministry of the Interior, Zalužani
- Detention Unit of the Zalužani Police Training Centre
- Pale Police Station (East Sarajevo Police Department)

Prisons

*FBiH*

- Mostar Prison
- Sarajevo Remand Prison

*RS*

- Banja Luka Prison.

The delegation also visited East Sarajevo Prison in order to interview newly-admitted remand prisoners who had recently been in police custody.

Psychiatric establishments

*RS*

- Forensic Psychiatric Hospital in Sokolac
- Special Psychiatric Hospital in Sokolac

*FBiH*

- Social Care Home for Mentally Disabled in Stolac (*establishment operating under the authority of the Herzegovina-Neretva Canton of the FBiH*).

**APPENDIX II:**

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

**A. National authorities**

**Ministry of Human Rights and Refugees of BiH**

Saliha Đuderija Assistant Minister

**Ministry of Justice of BiH**

Mustafa Bišić Assistant Minister

**Ministry of Security of BiH**

Omer Gabela Investigator at State Investigation and Protection Agency (SIPA)

Muris Cvrlijo Inspector of the State Border Police

**Ministry of Justice of RS**

Anton Kasipović Minister

Duško Šain Head of Inspectorate for Prison Establishments

**Ministry of Justice of FBiH**

Hidajet Trako Assistant Minister

**Ministry of Interior of RS**

Dragan Lukač Minister

**Ministry of Interior of FBiH**

Mustafa Hujdurović Inspector

**Ministry of Interior of the Sarajevo Canton**

Milorad Bašić Police Commissioner

**Ministry of Labour and Social Policy of FBiH**

Miroslav Jurešić Assistant Minister

**The Institution of Human Rights Ombudsmen of BiH**

Jasminka Džumhur Ombudsman

**B. Other interlocutors**

Various lawyers defending victims of alleged police ill-treatment from the Sarajevo Canton