

CPT/Inf (2023) 10

Report

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

from 7 to 13 June 2022

The Government of Montenegro has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2023) 11.

Strasbourg, 22 June 2023

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I. INTRODUCTION

A. Dates of the visit and composition of the delegation

1. In pursuance 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 an ad-hoc visit to Montenegro from 7 to 13 June 2022. The visit was considered by the Committee “to be required in the circumstances” (cf. Article 7, paragraph 1, of the Convention).

2. The visit was carried out by the following members of the CPT: Nico Hirsch (Head of delegation), Marios Anastasi, Sanja Bezbradica Jelavić and Ömer Müslümanoğlu. They were supported by Francesca Gordon of the Committee's Secretariat.

3. The primary objective of the visit was to examine the treatment of persons deprived of their liberty by the police and the practical application of safeguards surrounding their detention. It also looked into the manner in which complaints of ill-treatment of detained persons by police officers were handled, as regards both disciplinary and criminal investigations and proceedings. The treatment of remand prisoners and their conditions of detention were also examined, as were the material conditions in police stations. The visit was also an opportunity for the delegation to review the implementation of the recommendations made by the Committee in its report on the 2017 visit to Montenegro.

A list of the establishments visited by the delegation is set out in Appendix I to this report.

4. The report on the visit was adopted by the CPT at its 109th meeting, held from 24 to 28 October 2022, and transmitted to the Montenegrin authorities on 23 November 2022. 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 Montenegrin authorities to provide, within three 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 co-operation encountered

5. In the course of the visit, the CPT delegation held consultations with Mersudin Gredić, State Secretary of the Ministry of Interior, Bojan Božović, State Secretary of the Ministry of Justice and Astrit Hoxha, State Secretary of the Ministry of Human and Minority Rights. It also met Zoran Brđanin, Director of the Police and Darko Bulatović, Director General of the Directorate for Enforcement of Criminal Sanctions, as well as senior officials from the Police Directorate, the Administration for Enforcement of Penal Sanctions, the Ministry of Justice, the Ministry of Interior and the Ministry of Foreign Affairs.

The delegation held separate discussions with Special Prosecutor, Zorica Milanović of the Office of the Supreme State Prosecutor. It also met with the Heads of the Unit for Internal Control of the Ministry of Interior, the Disciplinary Commission and the Ethics Committee.

Additional consultations were held with the Parliamentary Council for the Civic Control of the Work of the Police and with the Security and Defence Committee of the Montenegrin Parliament.

The delegation also met Siniša Bjeković, Protector of Human Rights and Freedoms of Montenegro, and representatives of the National Preventive Mechanism (NPM) as well as members of civil society active in areas falling within the CPT's mandate.

A list of the national and regional authorities as well as non-governmental organisations met by the delegation is set out in Appendix II of this report.

6. The co-operation received during the visit from the Montenegrin authorities was excellent. The delegation enjoyed rapid access to all the places it wished to visit, was provided with the information necessary for carrying out its tasks and was able to speak in private with persons deprived of their liberty. It would particularly like to express appreciation for the assistance provided by the CPT liaison officer, Milos Mirković.

That said, the Committee notes with concern that only two of the three immediate observations made by the delegation pursuant to article 8, paragraph 5, of the CPT's Convention (see below) were responded to by the Montenegrin authorities in their response dated 23 September 2022, (see paragraphs 8 below and 104).

7. The CPT must recall that the principle of co-operation between Parties to the Convention and the Committee is not limited to steps taken to facilitate the task of a visiting delegation. It also requires that decisive action be taken to improve the situation in the light of the CPT's recommendations. In this respect, the CPT remains concerned that persons placed in remand detention continue to be "warehoused" for periods as long as three years or more in poor conditions, aggravated by overcrowding. In 2022, the CPT found that the situation had not changed since 2004, despite the repeated recommendations made by the Committee; indeed, in some respects, remand detention had in fact deteriorated.

Equally, the Committee is concerned about the high number, and the pattern, of allegations of ill-treatment by the police received by its delegation in 2022, similar to the situation found in 2017, and it considers that the measures and reforms undertaken so far to tackle this remain insufficiently effective.

A lack of action by the Montenegrin authorities to take concrete action to improve the situation of persons held in remand detention and to effectively combat ill-treatment by the police will raise issues under Articles 3 and 10, paragraph 2, of the Convention.¹

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

8. During the end-of-visit talks with the Montenegrin authorities, on 13 June 2022, the delegation made a number of immediate observations under Article 8, paragraph 5, of the Convention. The Montenegrin authorities were requested to ensure that:

- as regards decency,
 - all persons on remand are systematically provided with basic hygiene kits on arrival in prison and, where necessary for indigent and/or foreign national persons, regularly thereafter, including appropriate equipment and products to keep themselves and their cells clean; and
 - women held in remand detention are provided with personal hygiene products upon arrival in the prison and, thereafter, on a regular basis, free of charge; and
- as regards quarantine,
 - the justification for the systematic use of the 10-day quarantine for newly arrived persons on remand with negative Covid-19 test results or who are not presenting Covid-19 symptoms, be reviewed by the National Health authorities, as well as by the Ministry of Justice; and
 - all persons held in quarantine are afforded daily access to outside exercise, are provided with access to a television and reading material, and are afforded the right to telephone calls or visits, where permissible;

1. Article 10, paragraph 2, reads as follows: "If the Party fails to co-operate or refuses to improve the situation in the light of the Committee's recommendations, the Committee may decide, after the Party has had an opportunity to make known its views, by a majority of two-thirds of its members to make a public statement on the matter."

- as regards a woman in Spuž Remand Prison, who had been in remand detention for four and a half years, and who was in a very poor state of mental health, be afforded an immediate second external psychiatric consultation to assess the appropriateness of keeping this woman there (see also paragraph 94).

These observations were confirmed by letter of 27 June 2022 when transmitting the delegation's preliminary observations to the Montenegrin authorities.

9. By letter of 23 September 2022, the Montenegrin authorities informed the CPT on the actions taken in response to these immediate observations and on other matters raised by the delegation at the end-of-visit talks. This response has been taken into account in the relevant sections of the present report.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Police establishments

1. Preliminary remarks

a. context and key findings

10. The report on the CPT's 2017 visit concluded that persons deprived of their liberty by the police ran an appreciable risk of ill-treatment. The visit report underlined that the action undertaken by the Montenegrin authorities to reduce ill-treatment by police officers was insufficiently effective its eradication and that the culture of police ill-treatment had still not been effectively curbed. More recently, the Committee has received a number of allegations of police ill-treatment both in the context of individual criminal investigations and in emergency situations. Consequently, the Committee considered that circumstances were apposite for the Committee to re-examine the treatment of persons deprived of their liberty by the police and to review the implementation of the Committee's previous recommendations.

11. The Committee notes the recent legislative, organisational and strategic reforms intended to improve the safeguards against ill-treatment for persons deprived of their liberty and the efforts to enhance the effectiveness of investigations into police misconduct (see Section 1(b) below).

Nevertheless, the high number, and pattern, of allegations of ill-treatment by the police gathered during the 2022 visit seemed to demonstrate that there had been very little improvement of the situation since the 2017 visit. Clearly, further concerted action is required to address the continuing issue of ill-treatment inflicted by the police and to fully eradicate this problem (see Section 2).

12. In addition to developing a police culture which views ill-treatment as illegal and unprofessional, it is also important that procedures are in place to ensure that all complaints of ill-treatment by police officers are promptly and thoroughly investigated. In this vein, the delegation met with the Internal Control Unit of the Ministry of the Interior (ICU), the Disciplinary and Ethics Committees, and with Parliamentary external oversight bodies, as well as senior prosecutors. The Committee addresses the overall accountability structure in place in Montenegro, in the context of efforts to inhibit an environment of impunity for police abuse, in Section 3 of this report.

b. legal and institutional framework

13. The prohibition of torture or inhuman or degrading treatment is set out in articles 28 and 31 of the Constitution. The Criminal Code (CC) proscribes coercion (article 165), ill-treatment (Article 166a), and torture (Article 167) as criminal offences. The CC also introduced other accessory criminal offences that can be classified as ill-treatment such as serious bodily injury (Article 151) or forced extraction of confession (Article 166). The Code of Criminal Procedure (CCP) prohibits verbal threats and physical force aimed at the extraction of confessions or other statements from criminal suspects.² It also excludes evidence judged to be based on any confession or other statement obtained by extortion, torture or abusive treatment. In addition, police officers are also regulated in the exercise of their public duties by the Law on Civil Servants and State Employees and, notably, by Article 95(1) concerning the prohibition of abuse of position or exceeding authority in public service.

2. Article 11, paragraph 1.

14. There have been various reforms since 2017 to the legal and institutional framework that underpins overall human rights adherence, including the prevention of ill-treatment and regulation of police activities and conduct. Recent measures, in 2021 and early 2022, include reforms to the Law on Internal Affairs (LIA), the CC and CCP, as well as new Instructions on the treatment of detainees and arrested persons by the police. In addition, further reforms are planned for late 2022 to strengthen protective safeguards and investigations into police misconduct.³ These revisions complement previous reforms of the CCP that aimed to establish a prosecutor-led investigation model.

Equally, the Montenegrin authorities informed the delegation that further reforms are planned, which include, among others, the amendment to Article 167 of the CC (torture prohibition) to impose tougher sanctions for the offence of torture in the form of longer sentences ranging from two to 10 years, as well as the imposition of the security measure of disqualification from performing a profession, activity or duty.⁴ Sentences are envisaged for the crime of ill-treatment by a public official (sentences ranging from 3 months to 3 years).⁵ The CPT was also informed that changes in the criminal legislation were underway with a view to abolishing the statute of limitations for criminal prosecution, under amended article 129 of the CC,⁶ notably as regards the criminal offence of torture pursuant to article 167 of the CC (but not ill-treatment (article 166(a))).

The Committee would appreciate an update as to when the above planned legal amendments will come into force and whether the abolition of the state of limitations for criminal prosecution also extends to the crime of ill-treatment pursuant to article 166(a) of the Criminal Code.

Further, **the Committee** notes the range of different offences proscribed within the CC regarding actions that could constitute torture and ill-treatment, and it **would like to receive confirmation that the legislative reform planned in late 2022 will ensure that the CC is fully aligned with criteria for the definition of torture set out by the United Nations Convention Against Torture (UNCAT) and with appropriate sanctions that are commensurate with the gravity of the crime of torture, in line with international standards** (see also paragraphs 36 to 38).

2. Torture and other forms of ill-treatment

15. The majority of persons met by the delegation indicated that they had been treated correctly by police officers at the time of their apprehension and in police custody. Nevertheless, the delegation still received a considerable number of allegations⁷ of physical ill-treatment of detained persons by police officers. These included allegations against officers from the Sector for the Fight against Organised Crime and Corruption, (remaining) Special Units, criminal police and inspectors from a variety of different police stations.

The allegations involved police officers and inspectors from police stations located in several parts of the country, including Bar, Bijelo Polje, Budva, Kolasin, Mojkovac and Podgorica and police premises at “Delta City” and “Limenka”.

3. According to the Montenegrin authorities, in November 2021 and January 2022, various reforms were made to the LIA including some aimed at strengthening investigations into police misconduct; as regards the Law on Free Legal Aid, reform is planned for late 2022 to ensure the victims of torture as ultimate users of the free legal aid services; and in 2021 and early 2022, reforms were made to the CC, introducing stricter penalties for *inter alia* persons acting in professional capacities. Further, a Working Group was established by the Ministry of Justice with the aim to align criminal legislation with relevant European standards including prohibition of the statute of limitations for criminal offences of torture and other forms of ill-treatment; to align the definition of torture with the UN Convention against Torture (UNCAT); as well as to increase penalties for persons acting in professional capacities; and to ensure that parole will not be possible for acts of ill-treatment committed by an official. Finalisation of the amendments is due by late 2022.

4. Reforms envisaged by the Montenegrin authorities for the CC article 167 (2) and (3).

5. Article 166(a)(2).

6. Non-Applicability of Statutory Limitations to Prosecution and Execution of Penalties, Article 129: “Statutory limitations shall not be applicable to criminal prosecution and execution of penalties for criminal offences set forth in Articles 167, 264 to 276b, 401, 401a, 422 to 424 and 426 to 431 of this Code, nor to criminal offences which may not be subject to statutes of limitations under ratified international treaties”.

7. A quarter of all persons interviewed by the CPT’s delegation.

16. The alleged physical ill-treatment consisted mainly of slaps, punches and kicks to the head, abdomen, chest and arms (including of persons who had their hands cuffed behind their backs and were lying prone on the ground). However, credible allegations were also received of falaka (strikes to the soles of feet), the grabbing and squeezing of suspects' genitals; electro-shocks with dog collars along with inducing a sensation of asphyxiation through placing a plastic bag over the head of the suspect, threats at gun-point, threats of rape, and the stripping of suspects, tying them to a chair and dousing them with cold water.

In addition, the delegation also heard of threats made against the children or other family members of the suspect to pressure them to make a confession or to impart certain pieces of information.

In the Committee's view, these alleged actions may well amount to torture.

17. Most of the alleged torture and / or ill-treatment occurred during the pre-investigation phase of criminal proceedings, apparently for the purpose of extracting information or a confession. In many (but by no means all) instances, these allegations concerned persons who had been summoned to police premises to give an initial statement or information, but who were not yet formally designated as a suspect. They had been summoned for "Informative Talks" with the police.⁸ Citizens (or indeed any person) may receive a summons to appear at a police station at a certain time and date.⁹ The criminal inspectors interviewed by the delegation at each police station visited stated that they had never had a refusal from a citizen to attend such a summons. These Informative Talks could last up to six hours in the offices of the criminal inspectors.

The status of the interviewed person, however, could quickly change from "citizen" to "suspect", if the statement provided gave rise to a suspicion of the perpetration of a crime. Thereafter, formal deprivation of liberty was authorised by the prosecutor for up to 72 hours in police custody (see section *Safeguards*).

Some persons interviewed by the CPT's delegation alleged that they had been ill-treated both during the Informative Talks and during the following 72 hours.

18. In addition, the delegation also received consistent allegations from persons interviewed in different remand prisons that following their apprehension they had been transported in police vehicles to isolated locations in the forests just outside Podgorica (Kakaricka Gora) and Bijelo Polje, where they were subjected to various forms of ill-treatment, including threats at gun point, electro-shocks to body parts and the placing of plastic bags or hoods over their heads.

19. As an illustration, the delegation received allegations from five persons held in different cells in the remand prisons of Spuz and Bijelo Polje alleging that the police had subjected them to various forms of abuse, including electro-shocks using electrified dog collars and had placed plastic bags over their heads inducing a sensation of asphyxiation. Further, these persons complained of being punched and kicked on the chest, shoulders and back while they were lying prone on the floor, with their hands cuffed behind their backs. They also stated that the police officers had made threats against their close family and children. The alleged aim was to extract information from these detained suspects.

These allegations concerned a combination of Special Unit police officers and criminal inspectors in the "Limenka" building and Podgorica Security Centre. Four of these persons had apparently already submitted official complaints to the prosecutors. The cases dated from May to December 2020 and at the time of the CPT visit in June 2022 the complainants had still not been informed of the outcome of their complaints (see paragraphs 32 to 34 on the lack of promptness in investigations).

8. See Article 259 (1) of the CCP.

9. The summons also states that should they choose not to attend then they would be obliged to at a later date.

20. In a number of cases, the delegation gathered medical evidence and other documentation which appeared to be 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,¹⁰ others provided information on the condition that their names would not be divulged.

- i. A person arrested on 14 January 2022 by police officers of Mojkovac Police Station, Mr B, alleged that he was slapped on the head as he was being placed in the police car in handcuffs and that, after he was placed in a police custody cell, he was subjected to repeated baton blows to his upper body, as well as slaps and kicks to various parts of his body.¹¹

On 17 January 2022, Mr B was transferred on remand to Bijelo Polije prison, where the prison doctor noted the following: “torn skin, left elbow, palpation pain, pain in left arm, tenderness and pain in left posterior neck in visual examination. No other trauma, no swelling.”

Following a complaint submitted by his lawyer, the Prosecutor’s Office had opened an investigation, and had requested CCTV footage from the cameras covering the cell on 14 January 2022. However, the prosecutor was apparently informed by the police that the CCTV footage was irretrievable due to the loss of electricity around the exact time of the alleged ill-treatment (see also *Accountability* section 3).

- ii. Equally, another illustration of the nature and pattern of various ill-treatment allegations is made on the basis of the following linked cases of Messrs C, D and E.

On 26 and 27 May 2020, Messrs C, D and E were apprehended by the police as suspects and a witness in the investigation of the planting of explosives on properties owned by a police officer and transported to the Podgorica Security Centre, where they alleged that unidentifiable police officers wearing balaclavas, subjected them to ill-treatment which included the application of electro-shocks to their genitals and thighs, punches to the body and head using boxing gloves and blows with baseball bats. They stated that throughout the beating loud music had been played to drown out their screams and that the ill-treatment had been inflicted to extort confessions and/or information from them.

Mr C was released from police custody on 28 May 2020 and, along with Mr D and E, lodged complaints with the internal oversight mechanisms, such as the ICU (who passed the file on to state prosecutors)¹², and with the external mechanisms, such as the Montenegrin Ombudsman¹³ and civil society bodies, alleging that crime inspectors in the Police Headquarters Podgorica had extorted testimonies from them through above-described treatment.

10. 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 delegation during the visit.

11. The CPT’s delegation interviewed Mr B in Bijelo Polije remand prison and checked his account in the records at Mojkovac police station; these merely indicated “after [Mr B] was brought to this police station on 14. 01. 2022, he hit the arm of the police with his knee while resisting the police. [Mr B], who was intoxicated, refused the alcohol test.” The record did not detail any incident requiring intervention to control him.

12. By letter Tu no. 76/21 dated 5 February 2021, the Basic State Prosecutor’s Office of Podgorica informed the Internal Control Department that it had formed a case under the case code Ktr no. 667/20, and that it is in the investigation phase. See also cases: Kt.no. 796/21 and Kt.no. 502/21.

13. Montenegrin Ombudsman Annual Report; published March 2021.

There was considerable public attention drawn to this matter in mid-2020.¹⁴ Further, the Montenegrin Ombudsman undertook an investigation into this case and found a violation of the prohibition of ill-treatment.¹⁵ Moreover, civil society bodies provided forensic reports on the injuries of Mr D and Mr E, in collaboration with the International Rehabilitation Council for Torture Victims (IRCT) and the Independent Forensic Expert Group, whose specialists noted “traces of torture in the form of “physical and psychological symptoms” during the examination of Mr [D] and Mr [E] and said that they were “highly consistent” with the allegations that they had been tortured by the police with beatings, electric shocks, humiliation and intimidation”.

As regards Mr C, according to information shared with the CPT’s delegation, the opinion of the forensic experts submitted to the prosecution on 9 June 2020 and again on 11 September 2020 stated that he had suffered injuries in the form of haemorrhages on his head, in the area of his right eye and nose, as well as bruises and scratches that could have been caused by blows made by a fist and a foot/ shoe, that the injuries sustained could have occurred on the day of the examination, namely on 28 May 2020, or two days earlier, and that they could have been caused by punches made while wearing boxing gloves (for more details see *Accountability* section 3).

21. In the course of the visit, the delegation once again found that officers from Special Police Units such as anti-corruption, and Special Units in mass protest or emergency situations still did not wear any identification tags. This is a recurring issue that the CPT has raised during the 2013 and 2017 visits.

In January 2018, the Montenegrin authorities had informed the CPT by letter that the Ministry of the Interior had adopted a Rulebook according to which each uniform would in future contain a visible inscription of a combination of letters and numbers which would enable the precise identification of every police officer, including those undertaking a special operation (see Official Gazette of Montenegro no. 76/17 on 17 November 2017).¹⁶

The CPT reiterates that the wearing of visible identification numbers or names on their uniforms represents a key safeguard against ill-treatment and the fight against impunity. It is incumbent on the authorities to ensure that police officers abide by the clear regulations in force on identification and that failure to do so should be sanctioned appropriately. **The CPT calls upon the Montenegrin authorities to ensure that all police officers on duty are identifiable in line with the 2017 Rulebook (see also *Accountability* section 3). In addition, police officers and/or criminal inspectors, when wearing civilian clothing on duty (during initial Informative Talks or when effecting arrests, etc.), should also be readily identifiable with a police number or name.**

22. The Committee also underlines that in many countries, the use of body-worn cameras is a particularly effective means of preventing ill-treatment, as well as in protecting the police against false accusations. **The CPT recommends that the Montenegrin authorities consider the introduction of body-worn cameras for police officers effecting the apprehension of suspects, during escorting of suspects in police vehicles and during initial stages of deprivation of liberty, as well as for officers in front-line/ direct contact with suspects, or citizens, on police premises**

14. This case triggered domestic and international public interest including from the United Nations, the European Union, the British Embassy and the United States Embassy, all requesting that the authorities conduct an urgent investigation, including from the UN Special Rapporteur on Torture, Mr Nils Melzer and Ms Elina Steinerte, Vice-Chair of the Working Group on Arbitrary Detention.

15. The Ombudsman found that the police officers of CB Podgorica violated the claimant’s rights by abusing him with inhuman and degrading treatment, in which his constitutional right to protect the dignity and inviolability of physical and psychological integrity was violated in connection with which the recommendation was made to the Police Administration to take measures without delay to identify and determine the responsibility of all police officers who have exceeded the authority of the complainant. Ombudsman Report, published 2021.

16. See CPT/Inf (2019) 2, Report to the Government of Montenegro on the visit to Montenegro carried out by the CPT from 9 to 16 October 2017, paragraph 22.

23. The CPT also notes that due to deficiencies in initial medical examinations of newly-arrived prisoners and the recording and reporting of injuries by the remand prison doctors (in both of Montenegro's remand prisons) injuries could go undetected (see Section B, *prison healthcare* section), undocumented and unreported, which, in the CPT's view, hampered the effectiveness of prosecutorial investigations into allegations of torture and ill-treatment by the police (see *Accountability* section).

24. The seriousness of the information gathered in the course of the 2022 visit concerning ill-treatment calls for immediate and determined action by the authorities. The Montenegrin authorities 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 police, notably among crime inspectors and certain special intervention units. 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 is 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 *Accountability* section).

The CPT reiterates its recommendation that both at the highest political level, as well as the Minister of the Interior and the Director of Police 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.

25. 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 Minister of the Interior, the Director of Police and regional police directors actively promote both a mind-set change and a culture change within the ranks of the law enforcement agencies, this should include encouraging police officers to report all cases of violence by colleagues through clear reporting lines to a distinct authority outside of the police unit concerned, as well as the active promotion of a legal framework for the protection of individuals who disclose information on ill-treatment and other malpractice.

Moreover, it is of fundamental importance 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 back up any message of zero tolerance (see also *Accountability* section 3).

26. The Committee considers that a change of mindset includes increasing training of police officers in human rights as a key measure to developing both a transparent and accountable, but also human rights-orientated, police service. It acknowledges efforts underway, notably the new Police Strategy, Action Plan and Instructions geared at promoting further training of police officers in such matters. It notes positively a range of external and internal training programmes for the police aimed at strengthening the protection of human rights, the prevention of torture and reporting on the use of force that have taken place.¹⁷ The Committee also notes positively that various awareness-raising initiatives focused on the prevention of ill-treatment of detained persons have been organised for police officials since 2019, in co-operation with national and international stakeholders, as well as some structural reforms undertaken to various police units.¹⁸

Nevertheless, the CPT remains concerned that the findings of its visit indicate that the torture prevention training is either not reaching as many of the front-line operational police officers and criminal inspectors as it should, or it is being ignored in practice.

The Committee recommends that broader measures should be taken to strengthen the overall supervision of the implementation of training, the recruitment of new staff and the strengthening of vigorous reporting and accountability structures; all of which can help in preventing ill-treatment. It also recommends that greater emphasis should be placed on training police officers on investigative interviewing techniques¹⁹ (see also paragraphs 35 and 50 on the electronic recording of police interviews).

3. Accountability: investigations, oversight and sanctions

27. The CPT has repeatedly stressed that the credibility of 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 inclined to ill-treat persons deprived of their liberty will quickly come to believe that they can do so with impunity.

Combating impunity must start within the police service. The CPT has seen that, too often, the *esprit de corps* within a police service leads to a willingness to stick together and help each other when allegations of ill-treatment are made, or even to cover up the illegal acts of colleagues.

28. Montenegro has internal and external systems of oversight in place, which remain the same as described in the Committee's 2017 report,²⁰ and include a plethora of internal and external mechanism bodies such as the ICU, Ethics Committee and Disciplinary Commission, external Parliamentary oversight with the Security and Defence Committee, Council for Civilian Control of Police, as well as the Ombudsman and NPM, civil society bodies, the media, among others.

29. The *internal oversight* process is primarily run by the ICU, which can act on its own initiative (*ex officio* controls) or based on requests from individuals or the police. The CPT appreciated the information provided by the ICU detailing the overview of cases in progress relating to the legality of police officer conduct, investigated by the ICU since 2019 until 2022, both on the basis of *ex officio* control and based on individuals' complaints. The Committee notes positively that the number of overall cases investigated internally has increased steadily since 2019 (73 in 2019, 89 in 2020, 98 in 2021 and 46 in the first four months of 2022). Of particular note is that six of the 73 cases in 2019, 13 of the 89 cases in 2020, and five of the 98 cases in 2021 were related to illegal use of coercion by police officers in the performance of their duties. However, it was evident that only a few cases per year have resulted in any sanction (see also *sanctions* paragraph below).

17. It takes particular note of the training of a target group of the Special Police Sector and the Intervention Unit, and highlighted in the CPT's previous report of 2017.

18. Including the Council of Europe, the European Commission's Technical Assistance and Information Exchange (TAIEX), the Montenegrin Ombudsman, among others. Further, a new Police Director has made some recent structural changes to the police teams, including disbanding certain Special Units and transferring some of the officers to other units.

19. See "Preventing police torture and other forms of ill-treatment", paragraphs 73-80 on "Investigative Interviewing" Extract from the CPT's 28th General Report, CPT/inf(2019)9-Part.

20. Report to the Government of Montenegro on the CPT's visit from 9-16 October 2017; CPT/inf(2019)2, Part A, Sections 3 and 5.

The Committee considers that it is positive that steps have been taken since its last visit in 2017 to bolster the ICU's capacity to investigate allegations of police abuse with increased staffing and resources,²¹ and that ICU investigators enjoy the same legal status as investigating police officers under the relevant legal provisions. Nonetheless, it considers that the ICU could still benefit further from a capacity to have ready access to forensic medical examinations of the injured party and resort to audio and/or video devices for the collection of evidence. Overall, the Committee considers that in line with case-law of the European Court of Human Rights,²² the official investigation into serious allegations of ill-treatment must be both prompt and thorough. The authorities must always make a serious attempt to find out what happened. They must take all reasonable steps available to them to secure the evidence concerning the incident, including, *inter alia*, eyewitness testimony and forensic evidence.

30. The ICU should also have the ability to follow through on its findings of irregular police conduct and on the consequent action taken by the Police Administration. The Committee has had an opportunity to review the information provided to its delegation on recent disciplinary findings by the ICU and the consequent disciplinary procedures and actions from the Police Administration and its relevant disciplinary committees. It noted positively that in several cases, findings from the ICU had been followed up by the Police Administration, with mostly fines of 20 to 30% of salaries for a period of two months. However, it was also apparent that in some cases (for example, separate cases of allegations of police officers' abuse in Cetinje, Tivat and Ulcinj police stations in 2020 and 2021), where the ICU had found evidence of abusive police conduct and passed the information to the Police Administration with a suggestion for suspension of a police officer, there had been no follow-up by the Police Administration (see also *sanctions* section).

Lastly, the ICU should also be systematically and consistently passing all cases with requisite elements that could constitute a criminal offence of torture or ill-treatment, as proscribed under the CC, to the prosecution service for criminal proceedings rather than investigating some cases under the administrative disciplinary procedure alone and sending others to the prosecutors. **The CPT recommends that the ICU adheres to such an approach systematically.**

The CPT also recommends that the Montenegrin authorities ensure ready access to forensic medical expertise and to audio and/or video surveillance footage to help the ICU to carry out effective investigations in a thorough manner. The authorities should also ensure that the ICU has the ability to follow up on the action taken by the Police Administration and to oblige follow-up, where applicable.

31. By law, a police officer will be temporarily removed/ suspended from work if they are remanded in custody or if criminal proceedings are instituted against them for a criminal offence committed at work or in connection with work.²³ However, this relates only to when the formal order to conduct an investigation is in place or there is a direct charge. There is no basis for mandatory suspension in the pre-investigation phase, which may last many months and up to several years while the state prosecutors undertake evidentiary requests.

The findings from the 2022 visit confirmed that during the criminal investigation procedure and indictment process, police officers were very rarely suspended or moved away from their positions of interacting with the public or detained persons. The exception being the case of six police officers from Pljevlja police station, including the Head of the relevant Unit, who were temporarily suspended after their indictment (reference Kt.No.263/20) under suspicion of ill-treating detained persons (contrary to 166a of the CC), pending the finalisation of criminal proceedings.

21. From 13 in 2017 to 21 in 2022.

22. For example, ECtHR, *Manzhos v. Russia*, Application No. 64752/09, Judgment of 24 May 2016.

23. LIA, Official Gazette of the Republic Montenegro, no. 44/12, 36/13, 1/15, 87/18, 070/21 and 123/21, Article 176.

Further, the CPT was concerned by the delegation's findings of multiple allegations received by the delegation from different persons, detained in separate places, involving Police Officer V., from the Special Operational Support of the Anti-Crime Sector, who allegedly kicked and insulted the suspects in his custody. Despite the fact that criminal investigation proceedings²⁴ had been initiated against this police officer, he appears to have remained on active duty and still in direct contact with citizens and suspects. **The CPT would like to be provided with updated information on this case.**

The CPT urges the Montenegrin authorities to ensure the implementation in practice of existing national legislation and suspend police officers who have criminal proceedings pending against them.

Further, throughout the pre-investigative stages of the proceedings, police officers who are being investigated for ill-treatment or torture should not work directly with the public or persons apprehended by the police.

32. One of the criteria adopted by the European Court of Human Rights and the CPT for assessing the effectiveness of investigations into torture and ill-treatment is that of promptness. Information provided to the delegation by the authorities and prosecution service clearly shows that many of the criminal proceedings into ill-treatment and torture allegations take over two years (and sometimes even longer) to complete after the reporting of allegations and the filing of indictments.

Information was provided to the CPT from the Montenegrin Prosecution Service relating to the 96 cases involving criminal proceedings pursuant to articles 166, 166a and 167 of the Criminal Code (torture and ill-treatment) between 1 January 2019 and 30 April 2022. Only 11 of these cases involving 17 police officers (some cases involving multiple perpetrators) ended with a sentence: six persons were sentenced with imprisonment, seven persons were given suspended sentences and a period (several months) of probation, two persons were acquitted and two cases, involving one person each, were still ongoing. A further 15 cases were pending before the court as of June 2022. Many of these cases were taking two, three or even four years to investigate and prosecute.²⁵

33. Some of the reasons for the delays in the investigatory process appear to be challenges encountered in identifying the alleged perpetrators (see above) and the lack of timely reaction by the Police Administration in providing video-surveillance footage as evidence to the prosecution service. Both are required to counter any environment that facilitates police officers acting with impunity.

One such example is the case of Mr C, as outlined above (*ill-treatment* section 2). In this case, the prosecutor, immediately after the allegations of police ill-treatment were made on 28 May 2020, formally asked the Podgorica Security Centre for video-footage of the place of interview of Mr C. When the investigating prosecutor received no reply, the request was repeated. Only two months later, on the 22 July 2020, did Podgorica Security Centre inform the prosecutor that the video-surveillance recording could not be recovered since one camera was not functioning and that video material from the other camera had been overwritten by new material".²⁶

Information provided to the delegation at the time of the visit by Podgorica Basic State Prosecutor's Office in respect of Mr C shows that, in the two years since the complaint was filed, only one police officer has been identified and he was indicted in May 2022 under "suspicion of commission of the offence of torture". Further, in the Case of Mr D, five officers were indicted in June 2021, 13 months after the criminal report was first filed with the prosecutors, in May 2020.

24. Case reference K.br 47/2021.

25. For example, the CPT noted, from the information provided to the CPT by the Supreme State Prosecutor's Office, that an indictment against police officer [T] for the criminal offence of ill-treatment under Art. 166a of the CC regarding the injuries he inflicted upon the injured party was issued on 18 November 2019. As of June 2022, the proceedings before the court remained ongoing.

26. Memorandum on the cases of Messrs C and D from the Basic State Prosecution Office, Podgorica, to the Special State Prosecutor, Zorica Milanovic, 6 June 2022, and shared with the CPT.

In the case of Mr E, the prison doctor examined him at the time when he was admitted to detention and the injuries were apparently recorded but not reported (see also *Prison healthcare* section). Mr E's father filed two criminal reports on this alleged incident on 4 and 24 June 2020 with the High and Basic State Prosecutors' Offices of Podgorica, and preliminary investigations were opened. However, as of the date of the delegation's visit, no police officers have yet been indicted. The case is ongoing as of June 2022 and has been hampered by the fact that the investigation has been unable to identify the police perpetrators, despite a range of forensic evidence indicating ill-treatment and even acts of torture.

Apparently, all six of the officers indicted above have continued to carry out their functions in the police, including interacting with the public and persons deprived of their liberty by the police.²⁷ **The CPT would appreciate a detailed explanation of the status of the investigations into the above cases, as well as an update on the current status of the indicted police officers.**

34. As mentioned above, the Committee considers that, in order to be effective, investigations must be conducted in a prompt and reasonably expeditious manner. The findings of the 2022 visit indicate that investigations are still being hampered by the lack of ability to identify perpetrators and are taking lengthy periods of time, especially in the preliminary stages. The result of this is that police officers under suspicion of conducting alleged ill-treatment and torture continue to carry out their functions in the police, including interacting with the public and persons deprived of their liberty by the police, as well as increasing the risk of potential collusion among the persons concerned. In light of this **the Committee recommends that the managers of police stations be regularly reminded by the Ministry of Interior and senior management of the Police Administration of the necessity to comply with requests from prosecutors in a prompt and timely fashion, in accordance with national legislation,²⁸ so as not to jeopardise the quality of the evidence. It also calls upon the Montenegrin authorities to ensure that all police officers on duty, including police criminal inspectors, are readily identifiable** (see also recommendation in paragraph 20).

35. It is also the CPT's long-held view that the electronic recording of police interviews is a useful safeguard against ill-treatment (as well as having significant advantages for the police).²⁹

In several cases, the CPT notes that prosecutors have requested surveillance footage but have not received prompt replies from the Police Administration and have subsequently been told that the footage no longer exists (with a variety of reasons being cited, such as exceeding the one month storage limit, electricity cuts, inability to cover certain areas by camera etc.). **The CPT recommends that audio-visual recording of interviews must be carried out in dedicated interview rooms (see paragraph 50). Further, it recommends that all parts of police stations should be covered by audio and/or video-surveillance and that recordings be kept for at least 60 days, and ideally longer, in line with national legislation on the storage of video-surveillance recordings of public places.**³⁰

36. The Committee considers that it is axiomatic that no matter how effective an investigation may be, it will serve very little purpose if the sanctions imposed for ill-treatment are inadequate. When ill-treatment has been proven, the imposition of a suitable penalty should follow. This will have

27. The Basic State Prosecutor's Office of Podgorica, by letter Tu no. 76/21 to the ICU dated 5 February 2021 had informed the ICU that the case was in its investigatory phase. As of June 2022, the date of the visit, the case was still pending.

28. Article 257 of the CCP.

29. See also paragraph 23 and the standards set out in paragraph 81 on "electronic recording of police interviews"; Extract from the CPT's 28th General Report, CPT/inf(2019)9-Part. The CPT standards are supported by evolving international normative principles such as the Principles on Effective Interviewing for Investigations and Information Gathering ("Mendez principles"), for example, "176. An accurate record must be made of all interviews, preferably with the use of audio-visual technology. Although implementing audio-visual recording may have to occur progressively, there are tangible benefits and savings associated with having reliable records; 177. Audio-visual recordings will facilitate the investigation of any allegations of ill-treatment during an interview. This is in the interest both of persons who claim to have been ill-treated and of interviewers confronted with ill-treatment allegations."

30. LIA, Chapter 56, section F, sub-section (4), which covers the video footage of public places.

a very strong dissuasive effect. Conversely, the imposition of light sentences can only engender a climate of impunity.

37. While it was positive that the number of cases prosecuted for the offences of torture and ill-treatment had increased relatively since 2017, the Committee noted with concern that *Montenegrin courts' sentences* remained notably low for the criminal offences of torture and ill-treatment, with many ending up as conditional penal sanctions. As outlined above, out of the 96 cases of torture and ill-treatment (notably articles 166(a) and 151 of the CC) that came before the Montenegrin courts from 1 January 2019 to 30 April 2022, just 11 cases resulted in sentences. Out of these, only three cases resulted in actual imprisonment (in one case (5 April 2019), 4 police officers were sentenced to 8 months imprisonment for the criminal offences of ill-treatment and serious bodily harm contrary to 166a and 151 of the CC; another case involved police officers sentenced to six months for the crime of ill-treatment contrary to article 166(a) of the CC; and the last case involved one police officer sentenced to imprisonment for two months and 15 days on the basis of an admission of guilt for conduct involving ill-treatment and serious bodily harm (articles 166a and 151 of the CC). All the other sentences were either suspended³¹ or were given to be served at home.³²

The maximum sentence length was eight months. This was despite the nature and severity of the crimes of ill-treatment and serious bodily harm (contrary to article 166a and 151 of the CC).

While the CPT acknowledges that the judicial authorities are independent and hence free to fix, within parameters set by the law, the sentence in any given case. It is nonetheless of the view that, via those parameters, **the intent of the legislator should be made clear: the criminal justice system should adopt a firm attitude with regard to perpetrators of torture and ill-treatment.**

38. Similarly, sanctions imposed following the determination of disciplinary culpability should be commensurate to the gravity of the case. Based on the information provided by the authorities on *internal disciplinary* cases which resulted in findings of illegal police conduct,³³ despite the severe nature of the findings (namely, kicks to suspects' heads, punches to their necks), the sanctions appeared to be ultimately rarely commensurate with the severity of the abusive conduct. In the Committee's view, in the last three years, fines of 20%, 30% and in one case 40% of 2 to 3 months' worth of salaries, are totally inadequate sanctions and do not act as a deterrent for such abusive police behaviour. Moreover, as outlined above (paragraph 30), **the Committee recommends that allegations involving the suspected police criminal conduct of torture and other forms of ill-treatment must go straight to criminal proceedings, rather than being subject to the internal administrative disciplinary system.**

31. Criminal Code, Article 54 (2): A suspended sentence may not be imposed for criminal offences punishable by a prison sentence of up to 10 years or a more severe penalty. However, in recent cases shared with the delegation and the Prosecution Office, over the last two to three years many of the sentences imposed were suspended.

32. Information provided to the CPT by the Supreme State Prosecutor's Office 7 and 13 June 2022.

33. Information provided to the CPT on 6 and 12 June 2022 on cases regarding allegations of torture, ill-treatment or excessive police coercion investigated by the ICU, the Police Administration, the Disciplinary and Ethic Committees and the Prosecution Service since 2019.

39. Overall, the Committee remains concerned that until the envisaged legal reforms are enforced, some key deficiencies remain and these can contribute to a culture in which police officials are not fully accountable for their conduct or can create an environment where a culture of impunity can flourish.

These deficiencies include the following issues: the current prescribed penalties still do not appear to be commensurate with the gravity of the crime of torture and ill-treatment, the numbers of disciplinary sanctions, including the use of suspended sentences, as well as sentences to imprisonment for acts of torture and ill-treatment, are still too low to serve as a genuine deterrent or to curb the practice of ill-treatment. Equally, there remains no obligation for the court to impose a measure or interim measure prohibiting the performance of duties or suspending the officer in the pre-investigation phase of criminal proceedings, which can take many months and in some cases, even several years. Criminal proceedings and outcomes are protracted, some hindered by the continuing lack of visible markings on certain police officers, which impedes ready identification. Further, the period of initial police Informative Talks creates, in practice, an environment with a lack of legal safeguards designed to prevent and the possibility of ill-treatment (see paragraph 47).

The Committee is of the view that such issues are cumulatively still contributing to a culture of police impunity and it **recommends that the Montenegrin authorities take concrete measures to address these to help the overall accountability system and to stop a culture of effective impunity for police actions.**

4. Safeguards against ill-treatment of persons deprived of their liberty

40. In general, the legal provisions containing formal safeguards against ill-treatment of persons deprived of their liberty by the police (in particular the right of detained persons to inform a close relative or another third party of their situation, to have access to a lawyer and to have access to a doctor) have remained essentially unchanged since the 2017 visit,³⁴ albeit with some reforms undertaken and some scheduled for late 2022 to strengthen these rights.³⁵ **The CPT would like to receive an update on the current status of the reforms in this regard** (see also paragraph 14).

41. As regards notification of custody, a person deprived of their liberty by the police must be immediately informed that they have the right to request that a person of their choice is informed of the arrest.³⁶ A citizen summoned for Informative Talks is only granted this right once the police authority, in the course of the informative talks, assesses that the persons may be deemed a suspect (Article 261 (3) of the CCP).

The custody registers examined by the delegation devoted a specific section to the notification of custody to a third party, signed by the detained person and the police custody officer. At all the police stations visited, a specific form on, or log of, third party notification exists, recording data concerning whether the right was exercised or refused, who was contacted, the date and time and signature of the police officer and detained person.

However, while some of the detained persons interviewed by the delegation stated that they had been informed of this right, many stated that they had not been offered the possibility to contact their family or a third party. This was notably the case during initial Informative Talks (see below).

The CPT re-iterates its recommendation that the Montenegrin authorities ensure that all detained persons are offered the possibility to notify a person of their own choice of their detention from the very outset of their deprivation of liberty, including during initial Informative Talks with the police (see for more detail, paragraph 47).

34. Articles 5, 180, 259-268 of the CCP, as amended.

35. Reforms envisaged for July 2022 include the area of victims' rights, and rights of suspects and accused persons.

36. Article 5(1) and Article 180(1) of the CCP.

42. The right of persons deprived of their liberty to have access to a lawyer is also guaranteed by the Constitution and Articles 5 and 261 (3) of the CCP.³⁷ Further, Article 261(4) of the CCP states that if a detained person's own lawyer does not appear within four hours, the police and prosecutor will facilitate contact with an *ex officio* counsel. The law also states that a person summoned for Informative Talks may attend with their own lawyer.³⁸

However, in practice, access to a lawyer remains problematic. Very few persons interviewed in police custody or remand detention had had access to a lawyer from the outset of their deprivation of liberty or before they were brought before the prosecutor. Police inspectors interviewed at all police premises visited by the delegation acknowledged that only very rarely were lawyers present during police interviews. Further, as regards initial Informative Talks, as these Talks were for "information purposes only" police inspectors openly acknowledged that they saw no need for detained persons to have access to a lawyer before they were brought before the prosecutor (see section 2). None of the persons interviewed by the delegation had been offered, or had exercised, their right to a lawyer during this first pre-investigative stage of interviewing. Further, no records were available to show whether a lawyer had been offered or not during initial Informative Talks.

43. The majority of registers and records for persons detained as suspects examined by the delegation showed that they had been offered the possibility to contact a lawyer. However, in all the records and logs examined from 2020 to 2022 in all the police stations visited, in only two cases (Bar Police Station and the "Limenka" police premises)³⁹ did a suspect make a call to the lawyer while in initial police custody (before being brought to the prosecutor).

Even at the prosecutor's office, any contact with a lawyer was often not in private. For example, at least six persons interviewed separately at Spuž and Bijelo Polje Prisons stated that they had actively requested to see a lawyer during their police custody but were denied this by the police. Their custody records at the relevant police stations were apparently marked as "not wishing to see a lawyer", which the delegation was later able to confirm when it examined some of these records.

The findings of the visit indicated that the right of access to a lawyer at the outset of a person's deprivation of liberty still does not exist in practice. Clearly, this right is still not regarded by law enforcement officials as a safeguard against ill-treatment but rather only as a fair-trial guarantee.

The CPT calls again upon the Montenegrin authorities to ensure that all persons detained by the police are both informed of, and given the opportunity to exercise, their right to access a lawyer from the very outset of their deprivation of liberty by the police. It is particularly important that the lawyer meets the detained person in private at an early stage of the procedure and is present during questioning of the person concerned, as is provided for in the CCP.

44. The right of access to a doctor⁴⁰ stipulates that police officers will facilitate medical assistance to the persons requiring it, through referral to a medical institution. In cases of cardiac arrest, prompt intervention by trained personnel on duty will save lives. The information sheet distributed to detained persons in police establishments also refers to the right of detained persons to request medical care from a doctor. The possibility for criminal suspects, legal counsel or family members to request a medical examination in front of the State Prosecutor also exists;⁴¹ however, it is of note that persons can be detained for up to 12 hours before being brought before the prosecutor.

In most of the police stations visited, no specific register existed to record whether detained persons had requested, or had had access to, a doctor. However, on the individual custody files, a note could be made by the custody police officer if they saw injuries on a newly-arrived detained person, and, if deemed necessary, a doctor could visit to examine the detained person.

37. Pursuant to Article 261(3) of the CCP, a detained criminal suspect must be allowed to contact a legal counsel by phone or other means of electronic communication and the prosecutor may assist them in finding a lawyer.

38. Article 259(4) of the CCP.

39. In both cases, in May 2022.

40. Article 25 of the Law on Internal Affairs.

41. Article 268, paragraph 6 of the CCP.

All of the persons who alleged physical ill-treatment by the police claimed that they had not been offered the possibility of seeing a doctor by the police during their initial custody, even when they had requested it, and that they had only seen a doctor after they had been brought before the prosecutor or upon admission to remand prison.

In the instances when the detained persons did get access to a doctor and when they did make allegations of ill-treatment to the doctor, no further action was evident from the custody files.

The CPT calls upon the Montenegrin authorities to ensure that persons deprived of their liberty by the police are expressly guaranteed the right of access to a doctor from the very outset of their deprivation of liberty. In addition, it should make clear that a request by a detained person to see a doctor would always be granted; it is not for police officers, or any other authority, to filter such requests.

The CPT also recommends that any establishment where persons deprived of their liberty reside for more than 24 hours should have as a minimum round the clock coverage of at least one personnel who holds a valid certification in the application of cardiopulmonary resuscitation and the use of an automated external defibrillator (AED) and whose role clearly includes responding to situations where a person might have stopped breathing.

45. New information sheets designed in line with international standards,⁴² including the CPT's previous recommendations, in several languages, containing a reference to all the above mentioned safeguards against ill-treatment were available in the majority of police premises visited by the delegation (with the exception of Mojkovac Security Department).

However, very few of the detained persons interviewed stated that they had been provided with a written information sheet in police custody. Further, in some police stations visited (for example, Bijelo Polje CB, Mojkovac OB), while most records were complete, a couple of the signatures attesting receipt of the information by detained persons were missing (see below for the need for comprehensive custody records).

The CPT once again calls upon the Montenegrin authorities to take steps to ensure that all persons detained by the police are fully informed of their rights. This should include the provision of clear verbal and fully understandable information at the very outset of deprivation of liberty, to be supplemented upon arrival at police premises, including for Informative Talks, and by the systematic provision of the above-mentioned information sheets.

46. As outlined above, fundamental legal safeguards should equally apply to persons who may be summoned by the police for the purpose of gathering information on a criminal offence for a maximum period of six hours.⁴³ All police stations visited by the CPT kept a record in the custody registers of these Informative Talks, but the entry and departure points were not always systematically completed. For example, at "Delta City" police premises, the last entry of the five persons summoned by the police on the day that the CPT visited had no departure time, no indication that a lawyer was with them and no indication whether a doctor had been required or called. In addition, police confirmed that one of these persons was a juvenile.

In practice, the delegation found that the written information sheet with information about a person's rights was only provided after the initial Informative Talks, and summoned persons had been given no information on their rights during the Informative Talks in the status of citizen rather than suspect. Indeed, none of the persons interviewed by the delegation had been offered or afforded the right to access a lawyer or doctor or offered the possibility to contact their family or a third party during this period.

42. Including reference to the Council of Europe standards.

43. According to Article 259 (1) of the CCP.

47. The Committee considers that these Informative Talks provide a vacuum insofar as the same legal standards as could be afforded to formal suspects were clearly not afforded during this initial six-hour period of *de facto* deprivation of liberty. As regards the practice of initial Informative Talks with the police, the Committee notes that the content of the police summons states that should the summoned person choose not to attend the police station, then they would be obliged to at a later date. The CPT was informed that police criminal inspectors had never had a single refusal from a summoned person (see above). The Committee considers that these talks currently create a hybrid, grey zone, whereby they could quickly transform into a formal interview if a suspicion of the commission of a crime arises at any point during the talks. The Committee considers that these Informative Talks risk creating a *de facto* method of informal questioning by the police, with fewer safeguards in place to prevent ill-treatment.

The Committee has long seen that the possibility for police officers or criminal inspectors of inviting or summoning persons for “informal talks”, “collecting information” or “explanations” is provided for in a number of countries under a simplified procedure. The CPT has on numerous occasions noted that the risk of ill-treatment was higher in situations of precisely this kind and that informal questioning of “persons of interest” was abused in order, *inter alia* to deny procedural safeguards that would apply to persons formally considered as criminal suspects.

48. The CPT reiterates its previous recommendation that the Montenegrin authorities ensure that whenever a person is taken or summoned to a police establishment for the purpose of gathering information on a criminal offence, their presence is always duly recorded. In particular, the records should specify who was brought in or summoned, by whom, upon whose order, at what time, for what reason, in which capacity (suspect, witness, etc.), to whom the person concerned was handed over and when the person left the police premises.

Further, the Committee recommends that the relevant legislation and relevant police normative frameworks should be amended to expressly specify that Informative Talks should afford all the safeguards to citizens present on police premises as are afforded to suspects, in line with international standards⁴⁴. This should include the above-mentioned safeguards, rights and obligations for the complete recording of registers, timeframes, any injuries, access to a lawyer and other above-mentioned safeguards. It urges the Police Directorate to regularly remind police officers and inspectors of these safeguards.

Lastly, the Committee would appreciate information from the authorities as to whether such “Informative Talks” is a subject covered by police interview training, and if it is, it would appreciate being sent the relevant texts, including the interview methodology.

49. The legal time-limits for police custody were generally respected. However, the delegation did find that not all movements out of police custody (for example, to the court or prosecutor), or the reasons for those movements, were recorded. An illustration of this can be seen with the incomplete records at police premises “Delta City” (mentioned above). Another case in point is the case of Mr C (see above, paragraph 20), where records showed a two-hour period when he was removed from police custody by a certain named officer then returned for unspecified reasons. This meant that several hours remained unaccounted for in the custody records.

The CPT considers that the fundamental safeguards granted to persons in police custody would be reinforced if a single and comprehensive custody record were to exist for each person detained, on which all aspects of his/her custody and action taken regarding them would be recorded, including each time the person was taken in and out of the cell – and for what reason. **The Committee recommends that once a person is *de facto* or *de jure* deprived of their liberty by the police all instances when they are subsequently transferred within and outside of the police station should be recorded; that record should state the precise date and time the detained person is moved, the location to which he/she is taken and the officers responsible for taking him/her, the purpose for which he/she has been taken, and the date and time of his/her return.**

44. Such as, *inter alia*, the CPT Standards on police interviewing; Extract from the CPT’s 28th General Report, CPT/inf(2019)9-Part and Article 11 of the UNCAT.

50. The delegation also noted that none the offices of criminal inspectors, whereby most interviews and Informative Talks took place, were adequately equipped for such purposes.

The Committee considers that concrete steps should be taken to introduce dedicated interview rooms in police premises and to install audio-visual recording equipment for all police interviews. This would complement an investigative interviewing approach and increase police accountability as well as help to mitigate any false claims against the police. In this respect, **the Committee recommends that the current practice of interviews taking place in inspectors' offices should be phased out and a programme of installing dedicated rooms for interviews, covered by audio and video-surveillance, in police premises should be undertaken rapidly. Further, in the meanwhile, as outlined in the recommendation contained in paragraph 35, the Committee recommends that all parts where persons could be interviewed by the police should be covered by electronic recording.**

5. Conditions of detention

51. The material conditions of police custody cells remained largely the same as those observed in 2017, with some improvements. Once again, the delegation found that many cells are still not suitable for detaining persons for up to 72 hours due to structural deficiencies such as poor access to natural light, absence of outdoor exercise facilities and irregular provision of food (especially in the first 12 hours) for detained persons.

52. Cells in most police stations visited possessed a means of rest with mattresses and blankets, a ventilation system and a call bell (apart from Mojkovac Security Department). However, the cells visited had poor access to natural light (Pljevlja, Bar Security Centres, Mojkovac and Niksic Security Departments), inadequate artificial lighting for reading purposes (Plevbija) and insufficient ventilation (Podgorica, Bijelo Polje Security Centres). Moreover, in every police station visited (with the exception of Podgorica Security Centre) the delegation found dirty and stained mattresses and blankets, broken or dysfunctional wash basins with no running water and filthy toilets. In addition, a few cells were found to measure only 5 m² or less and yet were used for accommodating persons overnight (Niksic Security Centre, (cell No. 2)). Cells of less than 6 m² should not be used for accommodating persons overnight.

Equally, persons detained in custody for periods in excess of 24 hours should be offered adequate washing facilities. However, none of the police stations visited, with the exception of Podgorica Security Centre, had shower facilities and those in Podgorica were dirty and clearly out of regular use.

53. Moreover, many of the police stations visited did not offer basic hygiene products to detained persons, such as toilet paper.

Further, the provision of food for detained persons was also irregular at all police stations visited. Generally, no food was provided during the first 12 hours of detention, and thereafter its provision was sporadic and only consisted of a sandwich. All persons met by the delegation complained that they had been extremely hungry during their time in police custody. Persons in custody should be offered food at appropriate times, including at least one full hot meal (that is, something more substantial than a sandwich) every day and in accordance with any religious dietary needs of the detained person.

Lastly, many of the interviewed persons complained that they had not been able to sleep as the lights had been left constantly turned on for the 72 hours of their period of police custody.

54. The CPT recommends that immediate steps be taken to remedy the deficiencies in the police stations referred to above, including adequate access to natural light, sufficient ventilation, clean bed-linen, ready access to running water with adequate wash basins and shower facilities. The adequate provision of regular food and basic hygiene products, such as toilet paper, should also be assured for persons in police custody.

Police custody cells of 5 m² or less should not be used for holding detained persons overnight.

Further, as regards access to natural light, the provision of a shower and access to an outdoor exercise area, the CPT recommends that the Montenegrin authorities take into account these requirements when constructing new police detention facilities or upgrading existing ones.

55. In 2017, the CPT raised concerns over the safety of detained persons transferred in police vehicles (namely, minivans). The Montenegrin authorities did not respond to this issue of police vehicles but did underline that prison transport vehicles were being upgraded. In 2022, the police vans inspected by the delegation still contained a secure windowless metal-lined compartment behind the driver's cabin, with two metal benches running along each side of the compartment but no safety belts, hand grips, cushions or head support for safety and security. The CPT considers that whatever the grounds for transferring persons deprived of their liberty from a place of detention to another place, transportation should always be carried out in a humane, secure and safe manner, in accordance with the Committee's standards on this matter.⁴⁵

The CPT reiterates its recommendation that the Montenegrin authorities ensure that all transportation of detained persons in a police vehicle is carried out in a humane, secure and safe manner. The above deficiencies should be rectified with padded seats and safety belts, to ensure adequate safety for persons transported.

45. CPT/Inf(2018)24; CPT Factsheet on the "Transport of detainees".

B. Prison establishments

1. Preliminary remarks

56. The delegation undertook follow-up visits to the *Remand Prison of Spuž Facility* (located within the Spuž Complex on the northern outskirts of Podgorica) and to the remand section of *Bijelo Polje Prison*.

a. Penal strategy, remand detention and overcrowding

57. The Strategy for Execution of Criminal Sanctions 2017-2021⁴⁶ sought to revise the legal framework and, *inter alia*, to improve treatment and conditions for prisoners. The new Strategy and related Action Plan 2022-2026 was planned for the third quarter of 2022. Further, since 2017, various legal reforms had been undertaken to promote alternative sanctions, home detention and conditional sentences,⁴⁷ as well as various Covid-19 measures.⁴⁸ **The CPT would appreciate being sent a copy of the most recent Action Plan and its envisaged timetable for implementation.**

58. As regards the refurbishment of the prison estate, the plans of the Montenegrin authorities dating back to 2013 to construct a prison for long sentences in Podgorica, a Special Prison Hospital and an additional building at Bijelo Polje Prison had still not materialised.

At the outset of the visit, the delegation was informed of the feasibility studies and completion of detailed design for the building of four new facilities: a special health facility, a multi-functional facility (a new prison facility to be built in Mojkovac), a reception office and an open department.⁴⁹ It is envisaged that the prison will have a capacity of 250 places and include sections for remand, short and long-term sentenced prisoners and potentially also an area for women prisoners, designed around small units. The construction of these four facilities is scheduled to start in December 2022 and last for two years. **The CPT would like to receive an update on the progress made on the start of the construction works of the Mojkovac prison. It would also like to be informed as to whether a unit for women prisoners will be included in the new prison.**

59. As of June 2022, the overall prison population of Montenegro stood at 1019, a decrease of 165 persons since 2017, for an official capacity of 1333. However, the overall number of remand prisoners remained very high at 408 persons (some 40% of the prison population) for a capacity of 342,⁵⁰ resulting in overcrowding notably at the remand prison of the Spuž Prison Facility. These statistics indicate that the Montenegrin Courts are still frequently ordering the detention of criminal defendants pending trial, despite government promotion of the use of alternative measures (see above).

46. The strategy's objectives included the revision of the legal framework, further strengthening the enforcement of the laws, further reducing the number of prisoners, creating better conditions for detainees, reforming the education and re-socialisation of prisoners with strong opportunities for work and employment, improving human resources management and training and improving the working conditions for staff members within the system for execution of criminal sanctions.

47. The use of alternative sanctions has slightly increased from 2018, for example, sentences of Home Detention have risen from 105 cases in 2018 to 280 cases in 2021; penalties of work in the public interest remain the same over the same period (an average of 250 per year); conditional sentences have increased from 1 718 cases in 2018 to 2 008 cases in 2021. Use of parole has remained roughly the same level (around 400 cases per year).

48. In June, Parliament passed an amnesty law aimed at relieving the problem of overcrowding in the prison system and ensuring the safety of prisoners threatened by the Covid-19 pandemic. The law provided for a 15% reduction in prison sentences and a 10% reduction of sentences for those who have not yet begun serving their sentences. The amnesty does not apply to the most serious crimes.

49. According to the Montenegrin authorities, on 2 December 2019, the Financial Agreement for IPA 2018 between the European Commission and Montenegro entered into force, committing €13,516,733 for the EU project on improving access to justice and fundamental rights, which will fund the construction of these four facilities in the amount of €4,378,311.00.

50. The capacity for remand prisoners at Spuž prison was 292 and was 50 at Bijelo Polje prison (see sub-section 1(b)).

60. The law sets the initial length of pretrial detention at 30 days but permits prosecutors to increase this by five months. The cumulative effect of multiple extensions granted by judges, means that defendants can be legally detained on remand for up to three years from arrest through to completion of the trial or sentencing. In occasional cases, this can be extended in practice to four years (or more) when cases are on appeal or re-trial. Indeed, at Spuž Prison Facility, the delegation met a woman who had been held on remand for over four years and noted that there was a male remand prisoner who had been held since October 2016 (that is, over six years).

Overall, at both Spuž Prison Facility and Bijelo Polje Remand Prison, at the time of the visit, approximately a quarter of all remand prisoners had been held for over two years. While the average detention lasted between three and four months, many persons detained persons interviewed by the delegation had spent around three years in remand detention.

61. The CPT has long considered that due to its intrusive nature and bearing in mind the principle of presumption of innocence, the basic tenet is that remand detention should only be used as a measure of last resort (*ultima ratio*). It should be imposed for the shortest time possible and should be based on a case-by-case evaluation of the risks of committing a new crime, of absconding, tampering with evidence or witnesses, or otherwise interfering with the course of justice.

In the CPT's view, the principle that remand detention should only be imposed as a last resort implies in the first place that, as far as possible, non-custodial measures should be applied. This requires the availability of a broad range of measures, such as the conditional suspension of pre-trial detention, bail, house arrest, electronic monitoring, the obligation to comply with certain orders, judicial supervision, the removal of passports, etc. Such a range of alternatives should also be considered for foreign nationals, and the fact that such a person is neither a national nor a resident of the state, or that they do not have any other links with that state, should not, in itself, be sufficient to conclude that there is a risk of flight.

62. The situation regarding the persistently high numbers of persons held in remand detention, the protracted lengths of remand time, the poor conditions and regime (see below), if anything, deteriorated since the CPT's 2017 visit. The cumulative effects of this situation for persons held on remand, notably at Spuž Remand Prison, together with a reduced frequency of contact with the outside world may well, in the Committee's view, amount to inhuman and degrading treatment.

Equally, the European Court of Human Rights has found in a number of cases, including those concerning Montenegro,⁵¹ violations of Article 3, on similar matters of overcrowded living space and poor conditions.

63. As repeatedly highlighted by the CPT in its previous visit reports on Montenegro, as well as in its own standards on this matter,⁵² providing additional accommodation is unlikely to offer a lasting solution to the problem of prison overcrowding, without in parallel adopting policies designed to limit the number of persons sent to prison and to adequately implement alternatives to imprisonment, especially for certain categories of prisoner, such as those on remand. The CPT wishes to recall that prison overcrowding is neither just a problem for prison governors and prison administrations to solve, nor one that Governments can tackle alone. Instead, the CPT's experience has shown that combating prison overcrowding requires a systemic approach and concerted action by all relevant stakeholders.⁵³

The CPT reiterates its recommendation that the Montenegrin authorities pursue their efforts to combat remand prison overcrowding taking into account the relevant recommendations of the Committee of Ministers of the Council of Europe, in particular Recommendation Rec(99)22 concerning prison overcrowding and prison population inflation, Recommendation Rec(2003)22 on conditional release (parole), Recommendation Rec(2006)13 on the use of remand in custody, the conditions in which it takes place and the

51. *Bigović v. Montenegro*, application no. 48343/16 dated 19 March 2019; and *Bulatović v. Montenegro* application no. 67320/10 dated 22 July 2014.

52. 31st General Report of the CPT; 1 January - 31 December 2021; paragraph 85 to 107.

53. 31st General Report of the CPT; 1 January - 31 December 2021; paragraph 107.

provision of safeguards against abuse, and Recommendation Rec(2010)1 on the Council of Europe Probation Rules, Rec(2017)3 on the European Rules on community sanctions and measures. The Committee would like to receive updated information on the measures being taken to tackle prison overcrowding.

In particular, it recommends that the Montenegrin authorities take concrete steps to reduce the number of persons held on remand and to reduce the length of time spent in prison on remand.

b. Remand prison establishments visited

64. The CPT paid follow-up visits to the Remand Prison of Spuž Facility (located within the Spuž Complex on the northern outskirts of Podgorica) and to the Prison of Bijelo Polje.

The *Remand Prison*, located in an independent building within the Spuž Complex, held 355 persons on remand at the time of the visit (including 17 women) for an overall capacity of 292 (that is, an occupancy level of 119%). No persons under the age of 18 years of age were being held.

Bijelo Polje Prison, built in 1948, is situated in the centre of Bijelo Polje town. With an official overall capacity of 115 prisoners including a capacity for 50 remand prisoners, at the time of the visit, the prison held 48 prisoners on remand. There were no women or juveniles being held at the time of the visit.

2. Ill-treatment

65. The vast majority of persons interviewed by the delegation at *Spuž Remand Prison* and *Bijelo Polje Prison* stated that they were treated correctly by prison staff and many persons spoke highly of their interactions with prison staff.

However, the delegation did receive two allegations of ill-treatment by prison staff regarding one person from the time when he was held in Spuž Remand Prison in 2020 and again in 2022. He alleged that he had been subjected to ill-treatment (kicks and punches) by Spuž remand prison staff in 2020, which resulted in a broken tooth, and bruises on his face, arm and back. Apparently the complaint resulted in the prison staff being sentenced to suspended sentences by the courts. Subsequently, two years later, the same man was back in remand, and alleges that the prison staff of Spuž Remand Prison beat him again as a reprisal for his first complaint. Upon his request to the investigating judge, he was subsequently transferred to Bijelo Polje Remand Prison and, to the CPT's knowledge, his complaint is pending under criminal proceedings pursuant to article 166(a) of the Criminal Code.

The Committee would like to be informed about the outcome of the criminal proceedings and of any parallel disciplinary proceedings.

66. The information gathered by the delegation indicated that episodes of inter-prisoner violence and intimidation among remand prisoners were relatively rare both at the *Spuž Remand Prison* and *Bijelo Polje Prison*. When it did occur, it appears to have been managed effectively, with evidence of cell transfers and comprehensive risk assessments undertaken upon arrival prior to any cell allocation.

3. Conditions of detention

a. Spuž Remand Prison

67. The layout of the Remand Prison was essentially the same as described in the CPT's 2017 report, with separate units for men and women. The key change was the addition of a quarantine section for all new arrivals located in part of the semi-open facility, a few hundred metres from the Remand Prison block.

68. Material conditions at the Spuž Remand Prison have not visibly improved since 2017, with the exception that in-cell toilets were now fully screened in most cells.

The majority of the cells and the sanitary facilities displayed signs of wear and tear on the walls (graffiti, humidity/mould covering sections of the walls and ceilings and open electrical sockets, with exposed wires).

There was some deficient sanitation (missing shower heads, dripping taps), with dirty mattresses and no pillows across the remand prison and quarantine unit. The cell furniture remained inadequate (in most cells there were either no chairs or an insufficient number, many of which were broken).

On a more positive note, access to showers had improved with some of the women's cells having showers installed within a sanitary annexe to the cell, while men on remand could access communal showers on a regular basis, whenever the person requested. This is a definite improvement on the previous policy of one shower per week. However, the shower areas in the men's unit often lacked shower heads and privacy curtains, and the lack of ventilation caused some visible mould and humidity.

69. The lack of ventilation rendered the cells stiflingly hot at the time of the visit, with some cells registering more than 35°C. The heat was particularly noticeable in the Women's section, where the windows could not be opened more than a couple of centimetres. In the majority of cells, the windows were either placed behind metal bars, were too high up for the remand prisoners to open them or they could not be opened. In addition, there were opaque plastic coverings on either side of the windows in the Women's unit, which trapped the heat more intensely in the cells. The result was that virtually every remand prisoner interviewed found that the lack of air and the concentrated heat created stifling, bordering on unbearable, living conditions.

70. Moreover, living conditions in many cells were still afflicted by severe overcrowding, with some of the cells affording a mere 3 m² of living space per person for some of the women's and men's cells, not including the sanitary annexes.⁵⁴

71. The CPT's delegation was appalled at the lack of a regular supply of basic hygiene products for cleaning the cells and for maintaining personal dignity. This was notably the case for those persons without financial means, leading them to be reliant on their cellmates and other persons on remand, thereby opening up the potential for exploitation and bullying.

Persons who had been previously held on remand knew that they would need the support of their families to provide bed-sheets, pillow-cases, pillows, toothbrushes and paste, toilet rolls, cutlery and plates, as well as clothes and reading material. Whereas persons remanded for the first time to prison or indigent persons, arrived with none of these basic belongings (see also *Prison Rules* sub-section below). This was notably the case for Roma and foreign nationals met by the delegation.

54. For example, cell no. L2 III in the men's unit, measured 25.6 m² excluding the sanitary annexe for eight remand prisoners, this affording a mere 3.2 m² per person of living space.

Apart from a single-use thin plastic fork, a single-use plastic plate and a worn blanket, which in many cases was visibly filthy, new arrivals were provided with no support. The delegation met persons sleeping directly on hole-ridden foam mattresses without any covering or sheets, and no pillows; improvised pillows were made by stuffing pieces of the foam mattress into a shirt.

The delegation met Roma or foreign national inmates who had to beg, or rely totally on, cell mates for such basic items as toilet paper and toothpaste. Further, many persons did not have a spare set of clothes and relied on other prisoners to help them.

The existence of a prison item purchase list did not resolve matters, not only due to the fact that it took around eight days to make and receive an order but primarily because the prices were almost double those in the outside community.⁵⁵

A similar state of affairs was found at *Bijelo Polje Prison* for those persons without family support or financial means (see sub-section (b) below).

72. Recognising the importance of ensuring that all persons in prison should enjoy a minimum standard of basic living conditions, the CPT set out in its 30th General Report of May 2021 what it considers should constitute a decency threshold in prison.⁵⁶ At a minimum, it considers that all persons should have:

- access to sufficient clean drinking water;
- adequate food: both in quantity and nutritional value;
- decent sleeping and living conditions and the means to keep clean: proper sanitation, including toilet and shower facilities, washing water, cleaning products, laundry, personal hygiene products;
- effective access to, and fair remuneration for, work; ready access to other activities; and
- regular possibilities to remain in contact with the outside world (see also section 6(b) below).

The two remand prisons visited by the CPT were not discharging their duty of care to provide persons with all of these basic daily necessities.

73. In view of the very poor conditions in which persons on remand are being held, the CPT delegation in its Preliminary Observations, set to the Montenegrin authorities on 27 June 2022, invoked Article 8, paragraph 5, of the Convention and requested that immediate action be taken to ensure that: women are provided with personal hygiene products upon arrival to remand prison and thereafter on a regular basis, free of charge; and all persons on remand are systematically provided with basic hygiene kits on arrival and, where necessary for indigent or foreign national persons, regularly thereafter, including equipment to keep themselves and their cells clean.

In their response, dated 23 September 2022, the Montenegrin authorities outlined that all detained persons were provided with a hygiene package, as well as plastic cutlery, upon admission to Spuž Remand Prison. Equally, the Montenegrin authorities outlined various measures that had been undertaken since the delegation's visit to rectify the living conditions, including replacing old mattresses and pillows, as well as repairing electrical sockets.

55. For example, female sanitary products that sold at 1.50 euro in the shops in Podgorica were being sold for almost double the price inside the Remand Prison at 2.50 euros (see also *Women remand prisoners* section 4).

56. See the section on "A decency threshold for prisons – criteria for assessing conditions of detention" in the 30th General Report on the CPT's activities: CPT/Inf (2021) 5, paragraphs 63 to 81.

74. The Committee welcomes the above-mentioned efforts undertaken by the Administration for the Execution of Criminal Sanctions. Nevertheless, the CPT considers that further measures are required and it **recommends that the Montenegrin authorities ensure that all persons held on remand in both Spuž Remand and Bijelo Polje Prisons are provided with a regular supply of personal hygiene and cleaning products; the Committee would like to receive a list of the products provided and the frequency of their distribution. In addition, all newly arrived persons should be provided with clean bedding and a pillow, while decrepit and broken mattresses should be replaced on a regular basis. In this way, persons on remand will be provided with a minimum standard of living conditions that guarantees their dignity.**

Moreover, the CPT calls upon the Montenegrin authorities to ensure that all remand prisoners are afforded a minimum of 4 m² of living space in multiple-occupancy cells, excluding the sanitary annexe. Further, action should be taken to improve the ventilation in the cells and to remove the opaque plastic window coverings in the women's cells; an alternative solution for maintaining the privacy of the women should be found. Further, the shower areas in the men's unit should be renovated and provide sufficient privacy.

Equally, the prices of the products which may be purchased by persons in prison should be reviewed to ensure that basic items remain affordable.

75. The regime of activities for persons on remand had not evolved since 2017, and consisted of only two hours, by law, of outdoor exercise every day.

However, for various reasons such as understaffing⁵⁷ and the need to keep gang members apart, in practice access to outdoor exercise was limited to one or two slots of 30 minutes per day. For the rest of the time (23 hours per day), prisoners remained in a state of inactivity in their cells, reading and watching TV, if their families could afford to provide them with one or with any reading material.

There was little remunerated work available for remand prisoners (food serving and cleaning), and in any case only 5% of all the remand prisoners⁵⁸ had permission to work (by judicial authorisation).

76. The CPT stresses once again that it is unacceptable to inflict systematically, for months (and even years) on end, an impoverished regime of the kind described above on remand prisoners, persons who should benefit from the presumption of innocence. In its 26th General Report, the CPT stated that the aim should be to ensure that remand prisoners are able to spend a reasonable part of the day (that is, eight hours or more) outside their cells, engaged in purposeful activity of a varied nature (work, preferably with vocational value, education, sport, recreation/association). The longer the period of remand detention, the more varied the regime should be.⁵⁹

In 2017, the Committee stressed that the time had come for the Montenegrin authorities to fundamentally review the way in which remand prisoners are held. No such review has taken place to date, while the situation found during the 2022 visit shows that the conditions of detention in which persons on remand are held has continued to deteriorate.

The CPT again calls upon the Montenegrin authorities to devise and implement a comprehensive regime of out-of-cell structured activities for remand prisoners (work, vocation, education, recreation and sport). Further, they should ensure that all prisoners, without exception, are offered in practice at least two hours of outdoor exercise a day, in accordance with the national legislation.

57. In Spuž Remand Prison at the time of the visit there were 82 of the 96 staffing complement filled (14 vacancies), with 10 more staff members about to retire.

58. 15-20 remand prisoners of the 360 prisoners at the time of the visited were working.

59. See the 26th General Report of the CPT: CPT/Inf (2017)5, paragraphs 52 to 73.

b. Bijelo Polje Prison

77. The material conditions in the remand section have generally not improved since 2017⁶⁰ and remained dilapidated, displaying serious structural shortcomings such as poor access to natural light in cells, crumbling walls and floors in many of the cells and mould on the ceilings and walls.⁶¹

Discipline cell no. 2 afforded stark conditions with a non-screened toilet and video-surveillance, insufficient access to natural light and inadequate ventilation, with no furniture other than the bed and measured a mere 1.4 m wide, measuring an overall 6.6 m². In cases of over-capacity and in the case of risk-assessed/protection needs, this room could be, and was used, on a regular basis by the prison, pending the construction of a new prison facility at Mojkovac.

The CPT recommends that the Montenegrin authorities ensure that they maintain *all* the cells of the Remand Section in a decent state. Further, discipline cell no. 2 should either be taken out of service or refurbished to comply with the minimum standard of at least 2 metres between the walls of the cell,⁶² and sufficient privacy be afforded for the toilet needs for persons held therein.

78. As was the case with Spuž Remand Prison (see above section 3(a)), the delegation was appalled at the lack of a regular supply of basic hygiene products for cleaning the cells and for the inmates' personal dignity, especially for those persons without financial means, which prompted a total reliance on other inmates. Almost everything had to be provided by inmates' families other than the bed-frame, foam mattress, a blanket (which was invariably worn and dirty), and a single-use plastic fork and plate. This created visible discrepancies in quality of life between the different inmates and their conditions.

The CPT calls upon the Montenegrin authorities to regularly provide persons on remand with cleaning products for the maintenance of their cells and basic hygiene products, free of charge, such as soap, toothpaste and toilet paper.

Indigent persons or foreign nationals should also be provided with appropriate clothes. In addition, the recommendation contained in paragraph 74, section 3(a), applies equally to Bijelo Polje remand prison.

79. As regards the regime of activities, the situation at Bijelo Polje prison was also similar to that of Spuž Remand Prison. In summary, other than one or two 45-minute periods of access to the courtyard, no activities were on offer and only a couple of persons were offered paid work. For 23 hours per day, prisoners remained in a state of inactivity in their cells, their only form of distraction being reading and watching TV (if they, or their families, could afford one).

The recommendation in paragraph 75, section 3(a), applies equally to Bijelo Polje Prison.

60. CPT/Inf (2017)5, paragraph 52

61. On a positive note, in the case of a couple of cells, the prison management had allowed inmates to refurbish their own cells if they had the requisite skills and know-how and those prisoners with financial means were allowed to bring in their own fridges and electric hobs.

62. The CPT's minimum standard for personal living space in prison establishments; CPT/Inf (2015) 44, "Living space per prisoner in prison establishments: CPT standards".

4. Women remand prisoners

80. The CPT considers that women in prison constitute a group with distinctive needs, both biological and gender specific.⁶³ Some female prisoners also have particular vulnerabilities due to their social situation and cultural roles. There is a risk that the specific needs of women will be disregarded, especially as they are a minority category of prisoners. It is important that a number of factors are taken into account when dealing with women prisoners, notably any physical, sexual or psychological form of violence, including domestic violence, they might have suffered prior to imprisonment, an elevated level of mental healthcare needs, a raised prevalence of drug or alcohol dependency, specific healthcare needs, caretaking responsibilities for their children and/or families, and the high likelihood of post-release victimisation and abandonment by their families. As such, there is a need for a specific policy towards women; every establishment accommodating women should have distinct policies and approaches towards the treatment of women in prison based upon a gender sensitive risk and needs assessment.

81. During the course of the visit to both remand prisons, the delegation found a lack of gender-specific screening for women upon their entry, which examined the history of the women, including any mental health and gynaecological issues, self-harm and medical care and, importantly, which addressed sexual abuse and other gender-based violence issues either upon arrival or in the days and weeks following arrival. **The CPT recommends that gender-specific screening for women upon their entry to prison be established as a systematic practice, and the findings of such screening should inform the relevant follow-up care and treatment plan, which itself should be gender-specific and trauma-informed, in accordance with international standards.**⁶⁴

82. The CPT's delegation noted that the women prisoners interviewed seemed particularly psychologically affected and deeply frustrated by the lack of contact with the outside world and notably by the lack of ready access to regular telephone calls and visits from their children and their partners or parents looking after their children.

Several of these women had been denied access to the telephone in urgent situations (such as the hospitalisation of their child). Others had apparently only been authorised to call their family once in the previous two months, for five minutes. While visits were, in theory, permitted weekly, at the time of the visit, they had in practice been reduced for reasons of Covid to a maximum of two visits of less than 30 minutes per month, with only one person permitted at a time. Many of the women interviewed had several young children, whom they could not see all at once.

Other women had been abandoned by their families; one of the women had not had a visit from anyone in over two and a half years. Given how much reliance the remand system places on provision of essential living items from detained persons' families, the lack of contact with the outside world had particularly acute negative ramifications for daily life in remand prison for this woman.

Indeed, an illustration of one of the consequences of the impact of limited contact with the outside world was that some of the women had self-harmed; one woman interviewed by the delegation, Ms A, upon learning that her child had been hospitalised while she was in remand detention, was allegedly not allowed to call her husband or the hospital to get any information. After more than three days, she had become increasingly desperate to find out if her child was alright, which culminated in repeated self-harming to attract the attention needed to get access to a phone call, granted on the third day.

63. See CPT/Inf(2018)5, Women in Prison, January 2018.

64. See the UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders ('the Bangkok Rules'), notably Rules 6 and 10 to 18.

83. The Committee notes that a high percentage of women in prison are mothers and the primary caretakers in the family; this is particularly the norm in Montenegro. The Committee considers that separation from families and children can have a particularly detrimental effect on both the prisoners and their families, particularly their children.

In view of the critical importance of maintaining family relationships for women in prison, contact with their families, including their children, and their children's guardians and legal representatives, should be encouraged and facilitated by all reasonable means. Visiting hours should, in particular, allow for contact with school-age children or working relatives who might accompany them. Women prisoners could be permitted to receive longer if less frequent visits, by accumulating visiting time allowances. Further, financial assistance might be provided to those women in prison who do not have the necessary means to maintain regular contact with their dependent children.

84. In light of the above, **the CPT recommends that the Montenegrin authorities should take steps to ensure that:**

- **a decision to impose closed visits should always be based on an individual assessment of potential risks; open visits, allowing physical contact with friends and especially children and partners, should be the norm** (with the exception of pandemic times, however, see also section 6(c));
- **contact with families, including their children, and their children's guardians and legal representatives, should be encouraged and facilitated by all reasonable means, visiting times and hours should allow for contact with school-age children or working relatives who might accompany them, and telephone calls and visits should be at least once per week, in accordance with national legislation;**
- **telephone contact, in cases of emergency, should not be denied to prisoners with dependent children, and could be monitored to mitigate any risk of jeopardising the investigation;**
- **psychological support should be included in the care and treatment plan provided to women prisoners where necessary.**

85. The CPT's delegation also found that there was a lack of ready access to hygiene products such as sanitary pads. Those women prisoners who were indigent or who lacked regular contact with their families or who were foreign nationals, or who were unable to work in prison,⁶⁵ found themselves unable to afford the price of essential hygiene products such as sanitary pads, needed every month, at the higher price charged by the canteen/ prison purchase list.

The Committee believes that women's specific hygiene needs should be adequately addressed. Ready access to sanitary and washing facilities, adequate quantities of essential hygiene products, such as sanitary towels and tampons, are of particular importance. **The Committee is of the view that the failure to provide women in prison with such items can amount, in itself, to degrading treatment. The Committee recommends that women prisoners should be provided with free of charge basic hygiene products such as sanitary pads on a regular basis** (see also the recommendation made in section 3(a)).

5. Healthcare services

86. The healthcare centre, located on the third floor of the *Spuž Remand Prison*, remained responsible for the healthcare requirements of all persons held in the Spuž Prison Complex (some 1000 persons). For financial and operational reasons, previously announced plans to construct a new Special Prison Hospital, including an inpatient facility for psychiatric care, for all persons in prison remains under discussion. **The CPT would like to be updated on the Special Prison Hospital project and the timeframe envisaged for its establishment.**

65. While remunerated food distribution work was permitted for women prisoners, this was only available in practice for one or two women prisoners, upon judicial authorisation.

87. The number of personnel of the *Spuž healthcare centre* had decreased since 2017 and since the recent departure of the Head Doctor (a General Practitioner (GP)), the prison had contracts with two new GPs, one full time and one part-time.⁶⁶ There was a continuous nursing presence⁶⁷ provided by a Head Nurse and 14 nurses (working on 12-hour shifts).⁶⁸ Also present were a part-time internal specialist, radiologist, physiotherapist⁶⁹, two part-time psychiatrists⁷⁰, a full-time dentist and an assistant dental technician.⁷¹

The CPT notes that there is a decrease in the number of GPs since its last visit in 2017 and **recommends that the Montenegrin authorities increase the number of GPs at the *Spuž healthcare centre*.**

88. As regards *Bijelo Polje Prison*, the establishment has a contract with one part-time medical doctor⁷² who visits the prison every week-day evening for four hours and is also on call in case of need. Four nurses⁷³ also work at the prison on shifts all week (from 7 a.m. to 3 p.m. and from 3 p.m. to 8 p.m.) and on weekends. A part-time psychiatrist visits the prison once a week and is also on call. Persons in prison in need of other specialist or dental care are taken to the local hospital or dental clinic.

89. The premises of the *Spuž healthcare centre* included two consultation rooms at the Remand Prison and four consultation rooms in the main prison for sentenced prisoners (the Institution for Sentenced Prisoners, known as the “KPD”). The level of hygiene was adequate and remained substantially the same as in 2017. The pharmacies were kept in an orderly manner and were adequately furnished. The necessary medical equipment was in place and available, other than the X-ray machine, which was out of service at the time of the delegation’s visit.⁷⁴ The availability of medication appeared generally sufficient. Nevertheless, the centre was still situated on the third floor without a lift, making it inaccessible for persons suffering from a mobility limitation or a disability.

90. At *Bijelo Polje Prison*, the delegation noted that the health-care centre was equipped with the necessary equipment; however, the oxygen cylinders and masks were missing. The availability of medication appeared generally sufficient. Nevertheless, the centre was still situated on the first floor with steep steps leading up to it, making it inaccessible for persons with a mobility limitation or a disability.

The CPT again recommends that either a lift or ramp be installed in the health-care centres of Bijelo Polje and Spuž Remand Prisons or they be moved to the ground floor. Further, it recommends that the health-care centre of Bijelo Polje prison is equipped at all times with a supply of oxygen and an adequate number of masks.

The CPT further recommends that a person competent to provide first aid, who holds a valid certification in the application of cardiopulmonary resuscitation and the use of an automated external defibrillator, is always present in every penitentiary establishment.

66. In 2017, there had been Head GP and three full-time GPs who worked from Monday until Friday from 7.00 a.m. to 9.00 p.m., on Saturdays between 7.00 a.m. and 3.00 p.m. and on Sundays if needed. In June 2022, the two new GPs were starting the week of the CPT visit and the exact times had not yet been established.

67. There were always two nurses on duty in any given time.

68. In total, 15 nurses (seven male and eight female).

69. The medical specialists visit to prison three to four times a month.

70. One psychiatrist visits every day and the second one comes to prison 8 to 10 times a month.

71. There is a full-time dentist and an assistant dental technician from Monday to Friday.

72. Who is an emergency medicine specialist.

73. At the time of the visit, one of the four nurses was away temporarily on sick leave.

74. Including electrocardiographs, oxygen masks and tube, ultrasound doppler and tools for intubation

91. Medical screening of newly arrived prisoners is mandatory and should be performed immediately upon their admission.⁷⁵

At *Bijelo Polje*, the procedure involved an examination by the doctor or nurse, within 24 hours of arrival. There were no complaints from detained persons about the quality of the healthcare or delayed medical examinations. Medical examinations upon admission appeared to be carried out systematically and promptly.

However, at *Spuž Prison* healthcare centre the delegation found that, as was the case in 2017, medical examinations upon admission were of a superficial and cursory nature based on a questionnaire, with a detailed medical examination only carried out if persons raised a healthcare complaint with the doctor or nurse.

The CPT reiterates that medical screening of newly arrived prisoners is essential, in particular to prevent the spread of transmissible diseases, detect persons who may present a risk of self-harm or a suicide risk, to arrange or a person's specific health-care needs and to ensure the recording in good time of any injuries.

The CPT reiterates its recommendation that urgent steps be taken to put in place a thorough and systematic medical assessment of all prisoners newly-admitted to the Spuž Prison Complex. Such a medical assessment should also include the systematic screening for chronic as well as transmissible diseases (such as HIV and hepatitis).

92. Prison health-care services play a fundamental role in the prevention of ill-treatment by the police through the systematic recording of injuries borne by newly arrived persons in prison and, when appropriate, the provision of information to the relevant authorities.

Both at the *Spuž Prison Complex* and *Bijelo Polje Prison* there are registers of traumatic injuries. However, the description of injuries both in the register and in the personal medical files was cursory and the body charts were still too small to be of much use. The delegation did note that, if immediately visible, some of the injuries borne by newly arrived prisoners were being recorded during initial medical examinations and photos of the injuries were sometimes taken as well, but often were not filed in the person's medical files.

The CPT recommends that the Montenegrin authorities take the necessary steps to ensure that:

- **the records drawn up following the medical examination of persons upon admission to prison contain: (i) a full account of objective medical findings based on a thorough examination (supported by a "body chart" for marking traumatic injuries and, preferably, photographs of injuries), (ii) an account of statements made by the person concerned which are relevant to the medical examination (including their description of their state of health and any allegations of ill-treatment), and (iii) the healthcare professional's observations in the light of (i) and (ii), indicating the consistency between any allegations/statements made and the objective medical findings;**
- **the records also contain the results of additional examinations performed, detailed conclusions of specialised consultations and a description of treatment given for injuries and of any further procedures performed;**
- **the results of every examination, including the above-mentioned statements and the health-care professional's conclusions, are made available to the detained person and their lawyer; and**
- **whenever injuries are recorded which are consistent with allegations of ill-treatment made by a person (or which are indicative of ill-treatment, even where no allegations are made), the record is systematically brought to the attention of the relevant prosecutorial bodies and or independent complaints commissions, regardless of the**

75. Ministry of Justice Instructions outline the protocol for conducting a medical examination upon admission of all inmates which requires, *inter alia* the compilation of body charts in the medical notes, but without reference to the possibility of offering systematic screening for transmissible diseases to newly admitted prisoners.

wishes of the person concerned.

93. The confidentiality of medical records at both *Spuž Prison Complex* and *Bijelo Polje Prison* appeared generally to be well respected. Nevertheless, confidentiality of medical consultations was not observed and custodial staff were present during medical examinations. In *Spuž Prison Complex*, the medical consultations were carried out in a room which separated the patient from the prison custodial staff by a plastic screen (created at the time of the Covid-19 pandemic), but which did not prevent the custodial staff from seeing and hearing everything. In *Bijelo Polje Prison*, custodial staff were always present for the medical examinations.

The Committee reiterates its recommendation that steps be taken to ensure that medical examinations of prisoners are conducted out of the hearing and – unless the healthcare professional concerned expressly requests otherwise in a given case – out of the sight of non-medical staff.

94. As regards psychiatric care, the CPT notes that remand prisoners appear to have adequate access to a psychiatrist. Nevertheless, the case of a woman in *Spuž Remand Prison*, who had been in remand detention for four and a half years and who the delegation found was in a very poor state of mental health, raises questions over access to psychiatric care.

The delegation considered that the woman would benefit from a second external psychiatric opinion as to her current fitness to be detained under such a restricted prison regime, rather than to be transferred to a psychiatric hospital where she could benefit from a therapeutic environment.

To this end, in its Preliminary Observations to the authorities, the delegation invoked Article 8, paragraph 5, of the Convention and requested that an immediate second external psychiatric consultation be organised to assess whether it is appropriate for this woman's mental health to remain in *Spuž Remand Prison*. The response from the Montenegrin authorities, dated 23 September 2022, highlights that the relevant person was being monitored by two psychiatrists of the Administration for Execution of Criminal Sanctions, nevertheless, it stated that the above-mentioned woman will be referred to an external examination in a special health institution outside of the Administration for the Execution of Criminal Sanctions. **The CPT welcomes this update and would appreciate receiving a confirmation that this has taken place, as well as an update on the current status of the above-mentioned woman.**

6. Other issues of relevance to the CPT's mandate

a. internal prison regulations

95. As regards the internal prison rules, these provide an opportunity to acquaint prisoners with the running of the prison, including the regime and daily routine, as well as to ensure that they know how to contact their family. To this end, the CPT believes that prisoners should be provided with both oral information and a comprehensive information booklet which should exist in an appropriate range of languages. Particular attention should be paid to ascertain that the information provided is understood by prisoners with reading and writing difficulties and by foreign nationals who do not speak the language(s) spoken by staff.

The CPT's delegation found that prisoners in both prisons visited were completely unaware of the prison internal rules and the allowances for visits, canteen and telephone calls, among other crucial elements of life in prison. Indeed, the delegation found that foreign nationals and first-time remand prisoners were unaware that judicial authorisation was required to enable contact with the outside world and were also unsure how to contact the judicial authorities in order to get the requisite permission (recurring permission orders from the High Court or one-off orders from the Basic Court) to be able to send post, make or receive calls and receive visits (see also section 6(b) below).

While internal prison rules did exist in writing and in a couple of languages (Albanian and English), none of the prisoners interviewed by the delegation had seen these. Neither had these been explained to them in any meaningful induction programme during their arrival and placement in

quarantine (see below). Foreign nationals were completely dependent on trying to communicate with other inmates to understand the rules and indeed how to obtain the required authorisation.

The CPT reiterates its recommendation that all prisoners upon arrival should systematically be provided with oral information and a comprehensive information booklet on life in prison, which should exist in an appropriate range of languages.

b. Contact with the outside world

96. The CPT considers that remand prisoners should in principle be allowed to have contact with the outside world and communicate with their family and other persons (correspondence, visits, telephone) in the same way as sentenced prisoners.⁷⁶ It considers that all persons should benefit from a visiting entitlement of at least one hour every week and have access to a telephone once a week (in addition to the contacts with their lawyer(s)) at the very least. Moreover, the use of modern technology (such as free-of-charge Voice over Internet Protocol (VoIP) services) may help prisoners to maintain contact with their families and other persons.

In addition, the Committee considers that certain restrictions imposed on all remand prisoners as a matter of policy, such as the obligation to receive visits only under closed conditions (namely, through a glass partition), should be reviewed; any restrictions must be based on a thorough individual assessment of the risk which prisoners may present.

97. As regards the system in Montenegro that obliges remand prisoners to request authorisation from a judge or prosecutor for every single visit, the CPT considers that persons on remand should be entitled to receive visits (and make telephone calls) as a matter of principle, rather than these being subject to authorisation by a judicial authority. Any refusal in a given case to permit such contact should be specifically substantiated by the needs of the investigation, require the approval of a judicial authority and be applied for a specific period of time. If it is considered that there is an ongoing risk of collusion, particular visits (or telephone calls) can be monitored. Overall, the CPT believes that contact with the outside world should not be curtailed unless there are individualised reasons for the purposes of investigation, and even then it should not be totally denied.

98. At the time of the visit, the delegation found that in both *Spuz* and *Bieljo Polje* remand prisons, due to ongoing Covid restrictions (see also *Quarantine* sub-section below), persons were restricted to two visits a month, with one visitor (and only one child), behind glass and subject to the High Court authorisation order, and one phone call once a month for five minutes, also subject to the relevant court orders.

The CPT has consistently stated that any decision to prohibit or impose restrictions on a given prisoner's access to a telephone should be based on a substantiated risk of collusion, intimidation or another illegal activity and should be for a specified period. If there is a risk of collusion, particular telephone calls can always be monitored. However, the general principle should be to permit regular and frequent access to the telephone.

The CPT recalls that, according to the European Prison Rules, remand prisoners shall be allowed to communicate with family and other persons in the same way as convicted prisoners – “unless there is a specific prohibition for a specified period by a judicial authority” (Rule 99). In the interest of safeguarding their relationships with family and friends, the CPT considers that all categories of prisoners should be entitled to the equivalent of at least one hour of visiting time per week (that is, four hours per month). Preferably, prisoners should be able to receive at least one visit every week.

Moreover, the Committee also considers that all prisoners should be able to receive visits from their family members under reasonably open conditions; the use of screened visits should be the exception, not the rule, and based exclusively on a security concern of an appreciable nature.

76. CPT/Inf(2017)5-part, Remand detention extract from the 26th General Report of the CPT, published in 2017, paras 59-61.

99. The CPT calls upon the Montenegrin authorities to take the necessary steps, including of a legislative nature, to ensure that that all remand prisoners benefit from a visiting entitlement of at least one hour every week and remand prisoners are granted regular and frequent access to the telephone (in addition to the contacts with their lawyer(s)), once a week at the very least.

Further, the CPT calls upon the Montenegrin authorities to update the system of judicial authorisation for the remand system to ensure instead that remand prisoners can receive visits and make telephone calls as a matter of principle, rather than these being subject to authorisation by a judicial authority; any refusal in a given case to permit such contact should be specifically substantiated by the needs of the investigation, require the approval of a judicial authority and be applied for a specific period of time.

c. Quarantine

100. In both remand prisons visited, all newly arrived persons were placed systematically into an obligatory 10-day quarantine (extendable to 13 days if the end of the period fell on the weekend).

According to the authorities, this policy was mandated for reasons of Covid-19 prevention by the national health regulatory authorities and had been in place since the start of the pandemic.

This procedure was systematically applied despite the status of zero cases of Covid-19 among the prisoners at the time of the delegation's visit, and despite no routine use of PCR or antigen testing of all persons upon arrival (only if symptoms were apparent).

The quarantine took place in designated multiple-occupancy cells. In *Spuž Remand Prison*, this was located in part of the semi-open prison and in *Bijelo Polije Prison*, in two ground floor cells. Women were quarantined in dedicated cells located in the Women's Unit.

101. The delegation found that the regime offered to persons held on remand on quarantine was completely non-existent. Persons were held for 10 to 13 days, locked in their cells for 24 hours per day, in a few cases alone, with no access to outside exercise, to telephone calls⁷⁷ or to visits throughout this period. In effect, they were essentially completely cut off from the outside world.

In addition, in *Spuž Remand Prison* and in *Bijelo Polije Prison*, there was no ready access to a television or to reading material during the period of quarantine.

102. The conditions in the quarantine cells were similar to those in the rest of the cells for both of the remand prisons (that is, equally poor). However, the conditions were notably poor in the female quarantine cell in *Spuž Remand Prison* where the cell, measuring only 5.5 m², at times accommodated two women. At the time of the visit, the cell was equipped with a bunk bed and a locker, but lacked a table and chair, and was unbearably hot (36°C) with no ventilation.

103. Every detained person interviewed by the delegation complained about both the duration and the restrictions of quarantine. Moreover, other than a single-use plastic fork, knife and plate, some detergent for the toilet, a bed-sheet (in some cases) and a worn blanket, they were provided with nothing; often not even toilet paper. Further, they were not allowed any visits (or calls) so they had to share or beg from other persons in quarantine to obtain the basic necessities during the 10 to 13-day period.

77. Other than to their lawyer, in the context of a couple of the detained persons.

104. At the end of visit talks with the Montenegrin authorities, the delegation referred to the CPT's Statement of Principles (March 2020)⁷⁸ in the context of the Covid-19 pandemic in which it highlights, *inter alia* the necessity for all persons to be offered at least one hour of access to the open air and to be afforded contact with the outside world. Consequently, the delegation invoked Article 8, paragraph 5, of the Convention and requested that immediate action be taken to ensure that:

- **the justification for the systematic use of the 10-day quarantine for newly arrived remand inmates with negative tests results or who are not presenting symptoms, be reviewed by the National Health authorities, as well as by the Ministry of Justice; and**
- **persons held on quarantine are afforded daily access to outside exercise, are provided with access to a television and reading material, and afforded the right to telephone calls or visits, where permissible.**

In their response, dated 23 September 2022, the Montenegrin authorities did not address this issue. The Committee considers this an issue of co-operation in respect of article 8(5) of the CPT's Convention, as mentioned in paragraph 6.

105. **The CPT recommends that the Montenegrin authorities take action to ensure that newly arrived inmates are all Covid-screened and that any restrictions are made on an individually assessed basis.**

Further, it recommends that the Ministry of Justice and National Health authorities review the need for the systematic use of such a long quarantine period for newly arrived remand who have negative tests results.

Lastly, it recommends that all persons held in prison, including those on quarantine, are afforded daily access to outside exercise, provided with access to a television and reading material, and afforded the right to telephone calls (as per above, section 6(b)).

d. Monitoring and complaints procedures

106. The Montenegrin NPM undertakes monitoring of prison facilities. Prisons are also subject to external monitoring by civil society bodies and the Ombudsperson, among other bodies.

The CPT welcomes that the Ombudsperson, NPM and NGOs were active in the sphere of deprivation of liberty, increasingly raising their concerns on the problematic issues encountered in prisons in Montenegro, and most notably in the Spuž Remand Prison, collecting complaints from prisoner complaints boxes in both Bijelo Polje and Spuž Prisons and repeatedly making proposals to the Ministry of Justice for change.⁷⁹

107. The complaints' system has remained unchanged since 2017.⁸⁰ The *external complaints system* is in the form of Ombudsman complaints' boxes, where prisoners can post written complaints. The *internal complaints system* took the form of a submission of a request by the concerned prisoner for an interview with the Director of the prison.⁸¹ The request is submitted to the head of the prison staff shift, who then forwards the request to the prison Director. The complaint is made orally to the director only and there is no written trace of the complaint by either party. From an analysis of the relevant registers, it was clear that few to no complaints concerning violence, either from staff or inter-prisoner, have been submitted.

108. The CPT considers that it is crucially important that, in each place of deprivation of liberty, there is an effective internal complaints mechanism. This can help not only to identify and resolve problems as soon as they arise but also to assist management and frontline staff to prevent abuses.

78. CPT/Inf(2020)13, Statement of principles relating to the treatment of persons deprived of their liberty in the context of the coronavirus disease (Covid-19) pandemic, issued on 20 March 2020.

79. See for example Ombudsman and NPM 2020 to 2021 annual reports, which mentions the problems of poor conditions and overcrowding in Spuž Remand Prison.

80. CPT/inf, 2017 Report para. 80.

81. Pursuant to Article 12 of the Law on the Enforcement of Sentences of Imprisonment, Fines and Security Measures.

More sensitive and/or serious complaints should be submitted, by a separate internal procedure, directly to the person in charge of the establishment. In the CPT's view, it is also advisable that external complaints bodies maintain oversight on internal complaints mechanisms.

Further, the CPT considers that prison establishments should keep a record of complaints in a specific register, giving due consideration to the above-mentioned principles of confidentiality and safety. Such a register should include the names of the complainants, the type and the subject of complaints, the outcome of the complaints procedure and any appeal procedure, follow-up action taken to remedy the situation and any compensation provided to the complainants. These records should serve as a management tool. Moreover, it is advisable that a national system for compiling statistics on complaints, relevant proceedings and outcomes should be established.

109. In this vein, **the CPT recommends that the prison authorities of Montenegro ensure that the method of submitting internal complaints is made more transparent, with the required criteria of traceability⁸² and that a detailed written note of the complaint and its outcome is taken.**

82. See, for example, CPT/Inf(2018)4-part, Complaints mechanisms, extract from the 27th General Report of the CPT, published in 2018, section 5.

C. Concluding remarks

110. The Committee welcomes the recent reforms and the commitment of the Government of Montenegro to improving safeguards against ill-treatment and the efforts to enhance effective investigations into police misconduct. Nevertheless, the Committee remains concerned about the high number, and the pattern, of allegations of ill-treatment by the police received by its delegation in 2022, similar to the situation found in 2017. While some developments in the form of reform measures and police training aimed at tackling ill-treatment by law enforcement officials have been taken, overall, the Committee considers that these remain insufficiently effective.

The Montenegrin authorities should take further serious action to address the continuing issue of ill-treatment inflicted by the police, including the promotion of both a mind-set and culture change at all levels regarding a zero-tolerance message for police ill-treatment, genuine action to strengthen the effectiveness of investigations into police ill-treatment and serious efforts to counter impunity that enables ill-treatment to continue without appropriate sanction.

111. In relation to remand detention in Montenegro, the CPT has long recognised that the organisation of activities in remand prisons is not a straightforward matter. Nonetheless, since its first visit to Montenegro in 2004, the CPT has repeatedly underlined the need to reform the system of remand imprisonment, notably as concerns the levels of overcrowding, the lack of activities and poor material conditions.

Indeed in its report on the 2004,⁸³ the CPT underlined that “the current policy of “warehousing” remand prisoners is unacceptable”. Eighteen years later, in the course of the 2022 visit, the CPT found that the situation has not changed, and that persons placed in remand continue to be “warehoused” for periods as long as three years or more in poor conditions, aggravated by overcrowding. The Covid-19 pandemic has served only to push a strained remand system even further, along with negative repercussions on detained persons such as the reduced visitation hours and obligatory lengthy quarantines.

The Montenegrin authorities need to prioritise the reform of the system of remand imprisonment, which should include examining the increased use of alternatives to prison. For persons who are remanded to prison, the authorities should ensure that they are held in decent material conditions and provided with the necessities for daily living. Further, the authorities should radically improve the provision of activities for remand prisoners. The aim should be to ensure that they are able to spend a reasonable part of the day outside their cells, engaged in purposeful activities of a varied nature (education; group association activities; work, preferably with vocational value; sport). The legislative framework governing remand imprisonment should be revised accordingly.

112. The CPT wishes to receive from the Montenegrin authorities a comprehensive response to the issues set out in this report and, in particular, on the action being taken to eradicate police ill-treatment and on how the authorities plan to reform the system of remand detention.

83. As well as in subsequent CPT visit reports on the visits of 2008, 2013 and 2017.

APPENDIX I

LIST OF ESTABLISHMENTS

The delegation visited the following establishments:

Police establishments

- Bar Security Centre (CB)
- Bijelo Polje Security Centre (CB)
- Mojkovac Security Department (OB)
- Nikšić Security Centre (CB)
- Pljevlja Security Centre (CB)
- Podgorica Security Centre (CB)
- Police Directorate Offices, "Limenka", Podgorica
- Police Directorate Offices, "Delta City", Podgorica

Prison establishments

- Remand Prison, Bijelo Polje
- Remand Prison, Spuž Prison Complex

APPENDIX II

LIST OF THE NATIONAL AUTHORITIES, OTHER BODIES AND NON-GOVERNMENTAL ORGANISATIONS WITH WHICH THE DELEGATION HELD CONSULTATIONS

A. National authorities

Ministry of Interior

Mersudin Gredić	State Secretary
Zoran Brđanin	Director of the Police
Milan Adžić	Director of the Unit for Internal Control
Snežana Vujović	President of the Disciplinary Commission, Ministry of Interior
Lahira Duraković	Secretary of the Ethics Board, Ministry of Interior
Vladan Popović	Director of the Unit for Analysis and improvement of the work of the police, Police Administration
Vida Radomirović	Unit for Analysis and improvement of the work of the police
Mladen Marković	Director of the Centre for operational communications, Police Administration
Svetislav Čović	Director of the Danilovgrad Security Centre (municipal police administration), Police Administration
Aleksandrar Bošković	Sector for the fight against crime, Police Administration
Danka Tomić	Director of the Sector for International Cooperation, Ministry of Interior
Vojislav Bošković	Representative from the Sector for International Cooperation, Ministry of Interior
Dušan Velimirović	Representative from the Sector for International Cooperation, Ministry of Interior
Milena Pajović	Representative from Directorate for Security Affairs and Surveillance, Ministry of Interior

Ministry of Justice

Bojan Božović	State Secretary
Darko Bulatović	Director General of the Directorate for Enforcement of Criminal Sanctions
Rade Vojvodić	Acting Director of the Administration for Enforcement of Criminal Sanctions
Aida Bojadžić	Authorized Officer I for Control of the Enforcement of Prison Sentences and Security Measures, Administration for Enforcement of Criminal Sanctions
Nebojša Janković	Head of the Sector for General and Financial Affairs and Human Resources, Administration for Enforcement of Criminal Sanctions
Danijela Stanišić	Head for Sector for Healthcare Protection in the Administration for Enforcement of Criminal Sanctions

Ministry of Labour and Social Welfare

Nina Delević	Director of the Juvenile detention centre, Ljubović
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Ministry of Human and Minority Rights

Astrit Hoxha State Secretary

Ministry of Foreign Affairs

Miloš Mirković Third Secretary, Directorate for OSCE and Council of Europe
Directorate General for Multilateral Affairs

Office of the Supreme State Prosecutor

Zorica Milanović Special Prosecutor

Protector of Human Rights and Freedoms of Montenegro

Siniša Bjeković Protector of Human Rights and Freedoms (Ombudsperson)
Mirjana Radović Deputy Protector and representative of the National
Preventive Mechanism (NPM)

Security and Defence Committee of the Montenegrin Parliament

Mevludin Nuhodžić Vice-President of the committee, Member of Parliament
Dragan Ivanović Member of Parliament, committee member
Ivan Brajović Member of Parliament, committee member
Vladan Raičević Member of Parliament, committee member

Parliamentary Council for Civic Control of the Work of the Police

Dražen Cerović Council member
Milena Popovic Samardžić Council member

B. Non-governmental organisations

Human Rights Action
Civic Alliance for Human Rights