

Report

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

from 21 to 30 March 2023

The Government of Serbia has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2024) 05.

Strasbourg, 25 January 2024

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EXECUTIVE SUMMARY

The 2023 ad hoc visit to Serbia by the CPT focused on the treatment of persons deprived of their liberty by the police and the effectiveness of investigations carried out into allegations of ill-treatment by the police. The conditions of detention and treatment of remand prisoners in four pre-trial detention facilities and of juvenile offenders in the intensive care unit of the Kruševac Educational and Correctional Institution (VPD) were also examined. The lack of action by the Serbian authorities to implement the CPT recommendations to eradicate ill-treatment by the police represents a failure to cooperate fully with it and the Committee trusts concerted action will be taken to implement the recommendations contained in this report.

Establishments under the responsibility of the Ministry of Interior

A significant proportion of persons interviewed by the delegation stated that they had been treated correctly by the police. However, the delegation received numerous allegations of physical ill-treatment of criminal suspects by police officers, mainly in the Belgrade area. The alleged ill-treatment consisted of punches, slaps, kicks and blows with truncheons inflicted either at the time of arrest or during the initial interrogation, in order to extract a confession or information from the detained persons.

The report describes several cases of serious ill-treatment and torture, detailing practices such as placing a plastic bag over the head of criminal suspects and administering electric shocks from a hand-held device to extract a confession. Overall, the report concludes that the treatment of persons deprived of their liberty by the police, particularly in the Belgrade area, has not improved since the 2017 and 2021 visits. Regrettably, the Committee considers that the efforts made by the Serbian authorities to combat this phenomenon and to implement its previous recommendations have so far been partial and fragmentary. In the CPT's view, it is necessary for the Serbian authorities to adopt and implement a coherent strategy to eradicate ill-treatment. Such a strategy should include a zero-tolerance message on ill-treatment by the police from the highest political level and the implementation of mandatory training on investigative interviewing skills. It is also important to improve the system of the recording of injuries and the prompt transmission of this information to the prosecutorial authorities.

As regards the effectiveness of investigations into allegations of ill-treatment, the delegation examined a number of investigative files and found a number of shortcomings. These relate to issues such as: delays in the identification of cases and formation of the investigative files, lack of promptness and thoroughness in investigating episodes of alleged ill-treatment by law enforcement officials, and failure to apply appropriate investigative techniques by prosecutors. The work of the prosecutors should be reorganised and specialisation introduced, with designated prosecutors assigned to cases relating to Articles 136 and 137 of the Criminal Code. Further, the Internal Control Sector of the Ministry of Interior (SUKP) should develop a stronger interface with the relevant prosecutors. In addition, police officers against whom there is prima facie evidence that they have inflicted ill-treatment should be suspended pending the investigation of the alleged ill-treatment.

As regards safeguards against ill-treatment, the CPT calls on the Serbian authorities to take steps to ensure that the right of access to a lawyer is effectively applied from the outset of deprivation of liberty and to take active steps to ensure that police officers clearly communicate the legal status of persons summoned to a police station at all stages of their questioning.

The findings of the 2023 ad hoc visit indicate that the necessary paradigm shift in the interviewing of criminal suspects has not been implemented and that there is a need for the Serbian authorities to introduce systematic audio-video recording of all police interviews. Finally, certain material shortcomings with regard to police cells should be remedied and persons in police custody should be provided with food at regular intervals.

Establishments under the responsibility of the Ministry of Justice

The report notes a slight but steady increase in the number of persons in pre-trial detention in recent years, coupled with a decrease in the use of alternatives to detention (such as house arrest). Not surprisingly, the remand detention units visited by the delegation during the 2023 visit were severely overcrowded.

Few allegations of physical ill-treatment and excessive use of force were received at the remand sections of Novi Sad District Prison and Sremska Mitrovica Criminal Correctional Institution (KPZ) consisting of slaps, kicks and punches.

As regards the material conditions of detention, the report notes positively that since 2012 almost all remand detention blocks at the Belgrade District Prison have been renovated. The situation observed in the remand detention units of the three other prison establishments visited was less positive. Severe overcrowding was apparent with persons afforded less than 2m² of living space each (cells of 3.8 m² in Novi Sad District Prison accommodated two persons), as well as poor state of repair (old mattresses, rusty beds, crumbling and damp walls), and inadequate hygienic conditions (e.g. dilapidated sanitary facilities, insufficient showers, bed bug infestations). The combination of the serious overcrowding and the poor material conditions and neglect observed in the prisons visited could amount to inhuman and degrading treatment. The planned new facilities in Novi Sad and Subotica are to be welcomed.

The regime offered to persons in pre-trial detention continued to be very poor with persons locked in their cells for 22 hours or more every day. Access to the yard ranged from 30 minutes to two hours every day and only a handful of detained persons were offered general maintenance work.

The targeted visit to the Kruševac VPD focused on the treatment of juvenile offenders accommodated in the intensive care unit. The delegation received numerous allegations of ill-treatment consisting of slaps and blows with rubber truncheons to the thighs and buttocks of the juveniles inflicted by staff as a form of corporal punishment in connection with incidents of inter-prisoner violence, escape attempts or disobedient behaviour. The Serbian authorities should take concerted action to introduce a change of culture in this unit of the juvenile institution, moving away from a culture dominated by corporal punishment to one based on a juvenile-oriented educational approach supported by dynamic security.

The building of the intensive care unit was extremely carceral, resembling a high-security prison rather than a juvenile institution, with reinforced metal doors and metal bars on the windows, and grated gates at the entrance to the wing. A complete redesign of the intensive care unit to comply with international standards for the detention of juvenile offenders is envisaged and the CPT looks forward to receiving details on this project.

The regime in the unit was rather impoverished, with the juveniles spending most of their days in one of the common rooms watching television or playing board games. Very few organised activities of a purposeful nature were on offer which made their reintegration into the mainstream population rather arduous. The CPT looks forward to learning of the measures being taken to increase the level of purposeful activities offered in the intensive care unit.

The report also criticises the poor conditions in the unit's disciplinary cells, where juveniles can be segregated in pairs for several days without any activities being provided. The Committee stresses the need to reduce the measure of segregation, as it is detrimental to the physical and mental well-being of juveniles.

I. INTRODUCTION

A. The visit, the report and follow-up

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as “the Convention”), a delegation of the CPT carried out an ad hoc visit to Serbia from 21 to 30 March 2023. The visit was considered by the Committee “to be required in the circumstances” (cf. Article 7, paragraph 1, of the Convention) and its objective was to examine the treatment of persons deprived of their liberty by the police. The CPT considered that the action taken to prevent ill-treatment by the police in light of the recommendations contained in the reports on the 2017 and 2021 visits was not sufficient. The delegation also reviewed the effectiveness of investigations by the prosecutorial authorities and the Internal Control Service of the Ministry of the Interior (SUKP) into complaints of ill-treatment of detained persons by police officers. It was the Committee’s seventh visit to Serbia.¹

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

- Nico Hirsch (Head of Delegation)
- Juan Carlos da Silva
- Alexander Minchev
- Kristina Pardalos
- Asbjørn Rachlew.

3. They were supported by Christian Loda of the CPT Secretariat, and assisted by one expert, Boštjan Škrlec, Higher State Prosecutor and former Director General at the Supreme State Prosecutor’s Office of the Republic of Slovenia.

4. The report on the visit was adopted by the CPT at its 111th meeting, held from 3 to 7 July 2023, and transmitted to the authorities of Serbia on 25 July 2023. 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 that the authorities of Serbia provide within three months a response containing a full account of action taken by them to implement the Committee’s recommendations, along with replies to the comments and requests for information formulated in this report.

B. Consultations held by the delegation and cooperation encountered

5. In the course of the visit, the delegation held consultations with Bratislav Gašić, Minister of Interior, Danilo Stevandić, Secretary of State of the Ministry of Interior and Dejan Carević, Director of the Administration for the Enforcement of Criminal Sanctions at the Ministry of Justice, as well as with senior officials from the above-mentioned Ministries. Meetings were also held with two deputies of the Republic State Prosecutor, Zoran Pašalić, Ombudsman and Head of the National Preventive Mechanism (NPM) as well as with representatives of various non-governmental organisations.

6. On the whole, the CPT delegation received excellent cooperation during the visit by the Serbian authorities at all levels. The delegation had rapid access to all places of detention it wished to visit, was able to meet in private with those persons with whom it wanted to speak and was provided with access to the information required to carry out its task.

The Committee wishes to express its appreciation for the assistance provided to its delegation during the visit by the management and staff in the establishments visited as well as for the support offered by its liaison officer Mr Vladimir Šoć from the Ministry of Human and Minority Rights and Social Dialogue.

1. The visit reports and the responses of the Serbian authorities on all previous visits are available on the CPT’s website: <https://www.coe.int/en/web/cpt/serbia>.

7. However, the principle of cooperation between Parties to the Convention and the Committee, as set out in Article 3 of the Convention, is not limited to facilitating the work of a visiting delegation. It also requires that decisive action is taken to ensure that recommendations made by the Committee are effectively implemented in practice.

In this regard, the CPT notes that the Serbian authorities have not taken effective action to combat ill-treatment by police officers since the Committee's previous visits in 2017 and 2021. Decisive steps are required to put in place measures aimed at preventing the recourse to ill-treatment by police officers and ensuring that investigations into allegations of ill-treatment by police officers of persons deprived of their liberty are carried out effectively. There is also a need to implement the longstanding recommendations in the field of prison healthcare and to promote a radical change as regards the regime offered to remand prisoners. The CPT considers that a continued lack of action by the Serbian authorities to address these matters may result in the Committee opening the procedure laid out under Article 10, paragraph 2, of the Convention.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Law enforcement agencies

1. Preliminary remarks

8. In the course of the visit, the delegation examined the measures taken by the Serbian authorities to address the problem of ill-treatment by police officers since its 2021 visit. The measures taken include enhanced training activities for police officers on issues such as investigative interviewing and the treatment of detained persons and streamlined procedures for the medical examination of persons in police custody (including on the detection and reporting of injuries). Further, there is now increased monitoring of the work of the police through the activities of the five-member Commission for the Prevention of Ill-treatment and Torture by Police Staff of the Ministry of the Interior. The issue of ill-treatment by the police has also been the subject of scrutiny by the European Commission in its progress reports², in particular in the context of Serbia's accession negotiations with the European Union,³ by the Committee of Ministers of the Council of Europe in the context of its supervision of various judgments of the European Court of Human Rights against Serbia for violations of the procedural limb of Article 3 of the ECHR,⁴ and by various United Nations bodies.⁵

9. In the course of the visit, the delegation interviewed 131 pre-trial prisoners in the remand detention units of four prison establishments (namely, Belgrade, Novi Sad and Subotica District Prisons, and Sremska Mitrovica Penal Correctional Facility (i.e. *Kazneno Popravni Zavod* or KPZ) covering the Belgrade area and the Vojvodina region, concerning their experience in police custody and examining the relevant medical documentation (including medical files of remand prisoners, photographic documentation of injuries and direct observation). Further, it examined the files in relation to the investigation proceedings for alleged police ill-treatment initiated since January 2021 at the three Belgrade Basic Prosecutors' Offices.

10. The legal framework concerning the deprivation of liberty of criminal suspects has not changed since the 2021 visit and is limited to a maximum of 48 hours pursuant to Article 29 of the Constitution. The police are obliged to bring an arrested person in front of a prosecutor, within eight hours of their deprivation of liberty, who must decide on the police custody.⁶ A decision on provisional detention must be issued by the police within two hours from the deprivation of liberty of a criminal suspect.⁷

Pursuant to Article 288 of the CCP, citizens may also be summoned to a police station for the purpose of providing information on a given criminal offence for a period of up to four hours (see paragraph 33).

The Serbian authorities are in the process of drafting, in consultation with civil society, a new Law on Internal Affairs.⁸ The aim of the legislation is to ensure the operational independence of the Police from the Ministry of the Interior and to address, *inter alia* issues related to the CPT's mandate, such as the introduction of new means of restraint, a new system of reporting and monitoring the legality of the use of force, the work of the Sector of Internal Control of the Ministry of the Interior (SUKP) and disciplinary proceedings against police officers. In addition, a thematic working group of the Ministry of Justice was preparing a proposal for draft amendments to the Criminal Code (CC), including Articles 136 (on torture) and 137 (on coerced confession) of the CC, with new definitions

2. See in this respect the EC Progress Report on Serbia of 2022.

3. See the Revised Action Plan of the Government of Serbia on Chapter 23 of the EU accession negotiations.

4. See in particular the decision of the CoE Committee of Ministers on the closure of the examination of the so-called Stanimirović group of cases adopted at the 1451st CM-DH meeting, 6-8 December 2022.

5. See the UNCAT Concluding observations on the third periodic report on Serbia of 20 December 2021.

6. Pursuant to Article 291, paragraph 3 of the CPC.

7. Pursuant to Article 294, paragraph 2 of the CPC.

8. An initial draft of the law had been made public for consultation in the course of 2022. It was then withdrawn in the course of December 2022 and reintroduced in January 2023 following certain amendments.

of offences (including the qualification of perpetrators), revised penalties and the statute of limitations in line with the recommendations of international monitoring bodies (see paragraph 23).⁹

2. Ill-treatment

11. In the course of the visit, the delegation interviewed the delegation interviewed a significant number of persons held in pre-trial detention, of whom more than 40% made credible allegations of ill-treatment. In more than half of those cases the members of the delegation were able to find corroborating elements in the detained persons' medical files, drawn up at the time of their admission to prison, which in several cases had been brought to the attention of the competent prosecution authorities by the prison management (see paragraph 20). In addition, the delegation visited the relevant police establishments where persons had been apprehended in order to confirm the fact and time of their apprehension and the relevant steps in their chain of custody, notably the provision of medical assistance and the recording of any injuries at the time of their police custody. Finally, with regard to six cases of alleged ill-treatment reported by the management of the Belgrade District Prison to the three Belgrade Basic Prosecutor's Offices, the CPT's expert examined the initial investigative steps taken in relation to these cases.

12. A significant proportion of the persons interviewed by the delegation stated that they had been treated correctly by the police at the time of their detention/apprehension and during their police custody. Some remand prisoners met by the delegation at Novi Sad District Prison explicitly stated that, in their view, the professional standards and treatment of detained persons by police officers and criminal inspectors of the Novi Sad Police had improved in recent years. However, the delegation continued to receive numerous allegations of severe physical ill-treatment including cases amounting to torture of criminal suspects by police officers, predominantly in the Belgrade area, consisting in particular of the infliction of punches, slaps, kicks and blows with truncheons, either at the time of arrest (after their immobilisation), during transport in a police vehicle, or in a police station during their initial police interview, with a view to extracting a confession or information. Such allegations included the placing of a plastic bag over the head or stuffing a cloth in the mouth of the detained person to induce a sensation of being asphyxiated, punching a suspect on the head after forcing him to wear a motorcycle helmet in order to disorientate him and, in one case, the administering of electric shocks from a hand-held device. The delegation also received several allegations of severe forms of psychological ill-treatment against criminal suspects, such as simulated execution by defenestration, or of additional ill-treatment if they complained about their ill-treatment or revealed the true origin of their visible injuries to healthcare staff or the prison officer. Finally, the delegation once again received allegations of prolonged handcuffing of detained persons to furniture in inspectors' offices.

13. The following cases, which are presented for the purpose of illustration of a pattern, represent an example of the trend of ill-treatment and the functioning of the system of accountability and recording of injuries at the visited establishments. While some of the persons met by the delegation stated that they wanted to make a complaint¹⁰ about the ill-treatment, others provided information on the condition that their names would not be divulged:

- i. A remand prisoner met by the delegation at the Belgrade Special Prison Hospital alleged that, at the time of his arrest on 17 February 2023, he had been slapped in the face and kicked on the legs by two police officers after having been handcuffed. Subsequently, after being transferred to Zemun Police Station, he alleged that he was forced to kneel down in a sanitary facility and lick the ceramic surface of a floor-level toilet while the same police officers flushed the water. He also alleged that he was repeatedly slapped in the face and kicked in the midriff while sitting on a chair with his hands cuffed behind his back in an inspector's

9. In its concluding observations of the third cycle of monitoring of Serbia, issued on 20 December 2021, the UNCAT called on the Serbian authorities to align Articles 136 and 137 of the Criminal Code with all the elements contained in Article 1 of the United Nations Convention against Torture.

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 CPT delegation during the visit.

office.¹¹ At the time of his admission to Belgrade District Prison on 19 February 2023, the following injuries were recorded in his medical file “*swelling and blue-violet haematoma on the left ear, a 10 cm haematoma on the right elbow and swelling of the left knee*”. The case was referred to the Belgrade II Basic Prosecutor on 20 February 2023.

- ii. Another person alleged that when arrested in Belgrade on 4 November 2022, he had been subjected to serious physical ill-treatment and degrading conditions by a patrol of the intervention police in front of a garage he was using to store drugs. He said that he was dragged across the hard ground, slapped and punched in the chest and kidney area and forced to kneel down and place his head on the concrete ground for at least 30 minutes, with his hands cuffed behind his back, while his ears were pulled and a police officer simulated sexual intercourse. He also alleged that his shoes and socks were removed and soaked in water apparently to induce an infection given the low temperature. At the time of his admission to the Belgrade District Prison on 6 November 2022, the following injuries were recorded in his medical file: “*The person claims to feel pain in the head due to blows received from the police, on the right parietal area reddish haematoma of 2 cm x 0.5 cm, on the right side of the back several haematomas of 6 cm x 15 cm*”.
- iii. A remand prisoner met at Belgrade District Prison alleged that he had been arrested on the street by a group of four police officers during a rally on 15 February 2023 on suspicion of a terrorism-related offence, that he had been violently grabbed by his head and shoulder and dragged to the ground before being placed in a police van by the police officers belonging to an anti-terrorist unit who snatched his mobile phone. At the time of his admission to the Belgrade District Prison on 17 February 2023, he was physically examined, and the following injuries were recorded in his medical file and photographed: “*On the back of the left hand, at the base of the fourth finger, there is an abrasion with a crust of 1 cm. On the left lower leg, there is a 1 cm abrasion. On the inner side of the right knee there is a green-violet hematoma measuring 10 cm x 6 cm. There is a 0.5 cm abrasion on the right lower leg*”.
- iv. A pre-trial detainee interviewed at the Belgrade District Prison alleged that at the time of his arrest in connection with a street protest on 15 February 2023, he was transferred to Mol Headquarters, where he was allegedly punched in the stomach and head and pushed against the wall during interrogation in order to force him to unlock his mobile phone. At the time of his admission to the Belgrade District Prison on 17 February 2023, the following injuries were recorded in his medical file: “*0.5 cm abrasion on the left parietal region*”.
- v. Another person alleged that he was kicked in the head at the time of his arrest on 15 February 2023 and subsequently, during his interrogation in an inspector's office of the IV Criminal Police Department of the Belgrade 29th November Metropolitan Police Station, received several blows with a truncheon to his legs and was punched in the stomach in order to get him to sign a confession. At the time of his admission to the Belgrade District Prison, on 17 February 2023, the following entry was recorded in his medical file: “*He alleges physical ill-treatment from police officers belonging to the 29th November Police Station at the time of the arrest and at the police station consisting of punches, kicks and hits with truncheon. There is an elliptical haematoma of about 8 cm on his left thigh*”, which was noted in his file by the medical staff and photographed. The case had been referred to the Belgrade II Basic Prosecutor on 20 February 2023 by the Director of Belgrade District Prison.
- vi. A remand prisoner met by the delegation at the Belgrade District Prison alleged that, after having swallowed a certain amount of drugs when he was arrested on the street on 14 February 2023, he was taken by the police to his apartment for a search, where he was kicked and punched in the chest and ribs by several police officers while he was lying on the floor. Due to the deterioration of his health, he was then taken to the Military Medical Academy for gastric lavage before being processed and detained at the 29th November Metropolitan Police Station in Belgrade. At the time of his admission to the Belgrade District Prison on 16 February 2023, following his examination, the following entry was recorded in

11. Later, after being placed in a detention cell, he attempted suicide by strangling himself with the elastic of his jacket.

his medical file *“He received the injuries during the arrest – he was beaten with hands and feet – kicks. There is a 2 cm blue-violet haematoma on the back of the left lower leg. There is a 2 cm abrasion on the front of the left lower leg. There is a blue-violet bruise 8 cm x 3 cm on the inner surface of the left arm. On the right arm there is a blue-violet hematoma 7cm x 5 cm. On the right side of the chest there is a pale reddish bruise 4 cm in diameter. On the left side of the back, in the lumbar region, there is a blue-violet bruise measuring 4 x 3 cm”.*

- vii. A remand prisoner met by the delegation in Belgrade District Prison alleged that, at the time of his arrest on 4 January 2023, after having surrendered and with his hands up, he had been punched and kicked by four police officers and that, subsequently, during his interrogation in an office of the IV Anti-Narcotics Department of the 29th November Metropolitan Police, a hood had been placed over his head and he had been kicked to his head and ribs with boots and stepped on various parts of his body while lying on the floor in order to force him to confess. A lawyer who arrived at the police station requested that an ambulance be called to provide medical assistance. As a result, after examining him in the presence of police officers, the visiting healthcare personnel issued him with a certificate with the following general description *“The person has old and fresh injuries on the thorax and limbs, pain on palpation in the area of the chest”.* When he was admitted to the Belgrade District Prison on 6 January 2023, he underwent a full medical examination and the following entry was made in his file *“He was beaten with hands and feet on the head and body at the 29th November Police Station. There are two scratches on the back measuring 2 cm x 0.1 cm and 10 cm x 0.1 cm. There is an oval abrasion on the left elbow measuring 3 cm x 2 cm”.*
- viii. Another remand prisoner at Belgrade District Prison alleged that, at the time of his arrest on 7 March 2023 for a domestic violence related offence, police officers had kicked him several times in the head and ribs at his home in Resnik. At the time of his interrogation, the prosecutor, who noted the injuries, did not accept his explanation that they had been self-inflicted, as previously instructed by the police.¹² Upon his admission to the Belgrade District Prison on 9 March 2023, he was medically examined and the following injuries were photographed and recorded in his medical file: *“There is a haematoma on the upper lid of the left eye with a blue-violet colour. There is a 1 cm haematoma on the lower lid of the left eye. During the arrest he was thrown to the ground and kicked in the head. He was handcuffed”.*
- ix. A remand prisoner met by the delegation at Belgrade District Prison alleged to have been pushed down the stairs of his house by the police at the moment of his arrest on 23 February 2023 in Lazarevac and kicked in his ribs. At the time of his admission to Belgrade District Prison he was medically examined and the following injuries were described and included in his medical file: *“There is a 1 cm x 0.1 cm abrasion on the right cheek. On the left side of the chest there is a 4 cm x 3 cm hematoma with abrasion. He was beaten by the police in Lazarevac”.*
- x. A remand prisoner met by the delegation at the Belgrade District Prison alleged that, at the time of his arrest on 15 October 2022, after he had been taken from his car two police officers kicked him in the ribs while he was lying on the ground. Subsequently, after being transferred to the Zemun Police Station, he was subjected to further ill-treatment by the same police officers, consisting of truncheon blows to his chest and sides, the placing of a plastic bag on his head and several electric shocks from a hand-held electric device. The purpose of the ill-treatment was to obtain information about the drug packaging laboratory. At the time of the medical examination upon his admission to the Belgrade District Prison on 17 October 2022, the following injuries were described in his medical file: *“He was beaten on the body and ears with hands and a police baton. There are dark blue and green haematomas on both arms. On the back there are several double parallel haematomas with punctate haemorrhages. There is a 6 cm abrasion on the right lumbar region. Both ears have dark purple bruising and swelling”.* The case had been referred to the Belgrade II Basic Prosecutor by the management of the Belgrade District Prison and had also been the subject of a complaint to

12. The detained person had been escorted to the prosecutor by the same police patrol from Rakovica Police Station which had conducted his arrest.

the SUKP by the detainee's family. The CPT expert's assessment of the investigation carried out in this case is referred to in paragraph 24.

- xi. A remand prisoner, whom the delegation met in the infirmary of Belgrade District Prison immediately upon his admission to the facility, alleged that on 20 March 2023, following his arrest by a police patrol on the motorway the previous evening, he had been taken out of his car, made to lie on the ground with his hands cuffed behind his back and kicked on various parts of his body while bending over; he also recalled being hit over the head with a thick book. Later, after being held in the 29th November Belgrade Metropolitan Police Station, he was taken to hospital for a medical examination which revealed a fracture of his maxillary sinus. During the medical examination at the hospital, a policeman intervened and explained to the doctor on his behalf that the injuries had been caused by an accidental fall. At the time of the examination in prison (in the presence of the CPT's medical member), the following injuries were noted in his file: *"In the area of the left temple and around the left eye, there is a purplish-greenish bruise. Behind the right ear, there is a violet bruise measuring 0.8 cm x 0.9 cm. There is a swelling 1 cm in diameter above the right ear in the hairy part of the head. On the left wrist there are three abrasions measuring 0.8 cm x 0.1 cm, 0.9 cm x 0.1 cm and 0.8 cm x 0.1 cm (from handcuffs). On the index finger of the left hand, in the area of the middle phalanx, there is an abrasion measuring 0.6 cm x 0.2 cm. There is a linear fraying 6 mm long above the edge of the right palm. On the front of the left lower leg, there is a punctate abrasion measuring 1 cm x 0.7 cm"*.
- xii. A remand prisoner met by the delegation at Novi Sad District Prison alleged that, at the time of his arrest on 5 February 2023, a police officer had placed his boot on his head, with pressure, while he was lying on the floor with his hands cuffed behind his back. At the time of his admission to the detention cell at the Novi Sad Police Station, the custody officer recorded the following entry in the protocol on detention *"older haematoma on the left cheek"*. When he was examined at the Novi Sad District Prison on 8 February 2023, the following entry was made in his medical file: *"Under the left eye there is a reddish haematoma measuring 5 cm"*, which was assessed by the CPT's medical doctor to be consistent with the timing and dynamics of the allegation.
- xiii. A remand prisoner met by the delegation in Novi Sad District Prison alleged that, at the time of his arrest, in the same circumstances as the case under point xii, he was made to lie on the ground while handcuffed, where he was kicked several times and had a boot pressed on his head and side until he fainted. He then claimed that while lying on the ground he was forced to breathe through the exhaust pipe of a police car for several minutes. At Novi Sad Police Station, he was instructed by the police not to reveal the origin of his injuries, as this could aggravate his situation. As a result, the certificate issued by the visiting ambulance contained the following entry: *"Visible injuries on the face and periorbital haematomas on both eyes, the patient claims that the injuries are from "before" and related to his fall on the ground and refuses to be accompanied to the emergency room"*. A forensic examination carried out by the Institute of Forensic Medicine in Novi Sad on 9 February 2023 at the request of his *ex officio* lawyer described the injuries and compatibility as follows: *"a dark blue haematoma on the left eye, abrasion on the right cheekbone, abrasion on the right side of the lower lip measuring 0.5 cm x 0.5 cm, abrasion on the right eyelid, bruises on the fingers of both hands. The injuries in question can be classified as minor bodily injuries and their mechanism of origin can be linked to a blow, a fall or a concussion"*. The case had been referred to the Novi Sad Basic Prosecutor and was pending at the time of the visit.
- xiv. A remand prisoner met by the delegation at Subotica District Prison, arrested on 14 February 2023 in Subotica in connection with the murder of his partner, was allegedly punched in the eye at the Subotica Police Station after confessing to the crime. At the time of his admission to Subotica District Prison on 16 February 2023, the following entry was made in his medical file: *"Periorbital haematoma of the left eye. Haematoma in the outer third of the lower lid of the right eye"*. The case was referred to the Subotica Basic Prosecutor's Office.

- xv. A remand prisoner met by the delegation in Subotica District Prison alleged that, at the time of his arrest on 17 November 2022, he had been kicked several times while lying on the floor with his hands cuffed behind his back, after the police had found weapons in his home during a search. At the time of his admission to Subotica District Prison on 18 November 2022 the following entry was made in his medical file: *“Objectively: there is a vertical haematoma on the right shoulder with a length of 7 cm and a width of 4 cm. There is a faintly visible haematoma in the area of the right rib of the scapula. He complains of pain in this area”*.
- xvi. A remand prisoner met by the delegation at the Sremska Mitrovica KPZ alleged that, when he was arrested in Ruma on 2 November 2022, he had been violently pushed to the ground and subsequently, after being transferred to the Ruma Police Station, he had been slapped in the face while sitting on a chair with his hands cuffed behind his back in an office close to the reception area, thrown to the ground, kicked on the legs and hit with batons by several police officers in turns. When he was taken to the Sremska Mitrovica KPZ on the same day, the following injuries were recorded and photographed and found to be consistent with the dynamics of the allegation: *“There is a bruise on the head with an abrasion under the left eye, purple tramline haematomas on the left knee, bruises on both wrists from handcuffs, multiple haematomas in the antecubital region”*.

The delegation's forensic doctor examined the injuries described in the above cases (including photographic evidence) and found them to be compatible with the timing and mechanism of the allegations.

14. The delegation again received numerous allegations of prolonged interrogations during which suspects were regularly handcuffed to furniture or behind their backs or kept in stress positions without breaks and without being offered water or food. Furthermore, the same suspects told the delegation that they were often coerced into making confessions by the police issuing threats of violence against them or their families.

15. As mentioned in paragraph 7, the findings of the 2023 ad hoc visit to Serbia indicate that the treatment of persons deprived of their liberty by the police, particularly in the Belgrade area, has not improved since the visits in 2017 and 2021. Regrettably, the strategy to eradicate ill-treatment by the police, including most of the elements recommended by the CPT in its report on the 2021 visit, has not been drawn up by the Serbian authorities, and the Committee considers that the efforts made by the Serbian authorities to combat this phenomenon have so far been partial, fragmentary and lacking conviction.

In particular, without a firm message of zero tolerance from the highest political level on the unacceptability of ill-treatment by the police, any effort to achieve a positive result will be far more difficult. Further, training activities on issues such as professional interviewing skills and on the theoretical and practical aspects of preventing ill-treatment need to be more targeted and less dispersed, as their impact cannot be measured solely by the number of police officers who have attended induction or refresher courses. Moreover, the measures to strengthen the legal safeguards of persons deprived of their liberty have only been partially implemented, and the failure to set up the mandatory audio-video recording rooms, which remain unused, along with the clear abuse of interview practices only serve to demonstrate the police's unwillingness to abandon certain working methods from the past, in the sense of so-called information-gathering techniques geared towards obtaining a confession.

Further, the most serious allegations of ill-treatment received by the CPT's delegation during the ad hoc visit in 2023 relate to so-called information gathering interviews with criminal suspects, which may exceptionally be entrusted to the police by the public prosecutor pursuant to Article 289 of the CCP. It is self-evident that a criminal justice system that places a premium on confessional evidence creates incentives for officials involved in the investigation of crime to use physical or psychological coercion, particularly in the course of lengthy and extenuating so-called information gathering sessions with detained persons. First and foremost, the precise objective of such interviews must be made crystal clear: that should be to obtain accurate and reliable information in order to establish the truth about the matter under investigation, not to obtain a confession from someone who is already presumed guilty in the eyes of the interviewing police officers. In this respect, the public

prosecutor, as the ultimate initiator of criminal proceedings and the one who entrusts the police with the task of questioning suspects, should ensure that such so-called information-gathering sessions are conducted professionally and in compliance with the relevant provisions of the CCP as regards the suspect's right to be informed of his/her rights and to have access to a lawyer as well as the inadmissibility as evidence in proceedings of statements which have been made as a result of torture or other forms of ill-treatment.¹³ Finally, the system of impunity and accountability of police officers for their alleged misconduct has not yet been consolidated and crystallised for the reasons explained in paragraphs 22-28 and the spirit of the Methodology has not yet materialised. Moreover, the reluctance of the Ministry of the Interior, in the course of the adoption of the draft Law on Internal Affairs, to tighten the conditions for the suspension of police officers suspected of police misconduct towards detained persons undermines the efforts towards combating and eradicating police ill-treatment.

16. The CPT once again calls on the Serbian authorities to adopt and implement a coherent strategy for the eradication of ill-treatment which, in short, should consist of the following concrete and feasible steps:

- **Issue a zero-tolerance message from the Minister of the Interior to all police officers nationwide that there will be zero tolerance of torture and other forms of ill-treatment of detained persons, including physical and psychological abuse, which should be followed up on a regular basis by the Director of Police.**
- **Provide mandatory targeted training by the Sremska Kamenica Police Academy on professional interviewing skills that promote a shift away from confession-based interrogation, on the use of coercive means during arrest in rural and urban areas of the country, and on the vision of police ill-treatment by senior police management.**
- **Ensure a strict oversight, including by prosecutorial authorities, over information gathering interviews of criminal suspects pursuant to Article 289 of the CCP in order to ensure that no physical or psychological coercion is used by the police against detained persons to obtain a confession or information about a particular crime and that any statement obtained as evidence in such a manner should be declared inadmissible. Introduce the necessary secondary legislation for the mandatory audio-video recording of all police interrogations and establish appropriately equipped interrogation rooms throughout the country.**
- **Strictly implement Articles 288 and 289 of the CCP on the system of summoning citizens and criminal suspects to clarify their status at every stage of their interviewing.**
- **Extend the appointment and training of designated police officers who exclusively fulfil the role of "custody officer" (as distinct from an officer merely posted in the detention area), who is responsible for the well-being of detained persons during their time in police custody and for the practical implementation of various procedural and other safeguards against ill-treatment.**
- **Improve, in an integrated manner, the system of accountability of police officers for ill-treatment, in light of the recommendations in paragraph 25 on the specialisation of prosecutors in investigations into physical ill-treatment and by introducing stricter criteria for the disciplinary accountability of police officers, through their temporary suspension from duty during the investigation and dismissal from service in the event of a conviction for offences related to Articles 136 and 137 of the CC.**

17. The quality of the system for recording injuries at the prison establishments visited was good, which contributed to the documentation of the cases of ill-treatment referred to above. The examination of newly arrived prisoners was carried out promptly (in principle within 24 hours, exceptionally within 48 hours of admission), thoroughly and in a confidential setting. Injuries observed on detainees were accurately described and, as a rule, photographed and recorded in a personal file and in special injury registers and in principle were transmitted to the competent prosecutorial authorities (see paragraph 20). However, an assessment of the compatibility of the injuries with the allegations was not always made, and some doctors did not consider it to be their duty to do so.

¹³ Pursuant to Articles 16 and 84 of the CCP.

The delegation also noted that the records on persons detained in police custody now contained a specific entry on the description of injuries observed on the detained person when he was taken into police custody or referred to the content of the medical certificates issued to the detained person by civil hospitals or health personnel of the visiting ambulance (when escorted by police staff for the purpose of issuing a medical certificate on their injuries). The delegation noted that, in such a case, the description of the injuries by the healthcare staff of civil hospitals or healthcare centres and visiting doctors to police custody was more cursory and there was rarely any assessment of their origin. It was clear to the delegation that the accuracy and veracity of such descriptions is linked to the fact that examinations are rarely confidential and detained persons are under direct or indirect instructions from the police not to reveal the true origin of their injuries to the healthcare staff of civil hospitals or healthcare centres.

18. **The CPT reiterates its recommendation that steps be taken to ensure that the prison medical services at Belgrade, Novi Sad and Subotica District Prisons as well as the remand detention unit of Sremska Mitrovica KPZ and prison medical services in the rest of the country, fully play their role in preventing ill-treatment, by ensuring that:**

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

19. **The CPT recommends that the authorities of Serbia, in the context of the development of a Memorandum of Understanding between the Ministry of Interior and Ministry of Health on medical assistance to persons in police custody, put in place a system of visiting doctors to police premises. These doctors should, in addition to their general practitioner qualifications, be provided with training on how to identify and record injuries. Pending the establishment of such a system, doctors working in hospital emergency units, notably in major urban centres should, whenever they are able to do so, be required to describe any injuries in full and indicate at the end of their traumatic injury reports,¹⁴ whenever they are able to do so, any causal link between one or more objective medical findings and the statements of the person concerned. If necessary, a secure room in the hospital should be set aside where such examinations may be carried out in a safe, secure and confidential manner.**

20. All of the prison establishments visited, with the exception of Sremska Mitrovica KPZ, were regularly notifying the competent prosecutor of cases of alleged ill-treatment identified during the initial medical examination. The notification included a description of the injuries and photographic evidence.

Furthermore, in Belgrade District Prison, the actual number of cases referred to the prosecutorial authorities did not seem to include all the cases that actually appeared in the injury registers (for example, cases where detained persons had injuries which clearly indicated ill-treatment as the cause were not referred to the prosecutor).

The CPT recommends that the Service for the Enforcement of Criminal Sanctions takes the necessary measures in order to ensure that the management of Sremska Mitrovica KPZ

14. Reference is made in this context to Chapter IV of the 1999 United Nations Manual on Effective Investigations and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("Istanbul Protocol").

promptly and accurately informs the competent prosecutorial authorities of injuries observed on newly admitted prisoners. The notification in question should include the relevant medical documentation (including photographic evidence). Further, the Serbian authorities should also ensure that all prison managers promptly forward to the prosecutorial authorities all potential cases of police ill-treatment (including those in which light injuries are displayed).

Further, the CPT recommends that each injury report be filled out in accordance with the criteria set out in paragraph 18 and be accompanied by a statement which describes the alleged ill-treatment.

21. As it has been the case during previous visits, several persons told the delegation that they had complained to the prosecutor or the judge of preliminary proceedings about the alleged ill-treatment by police officers or that prosecutors had proactively asked about the origin of their visible injuries. The delegation notes that, in a few cases, prosecutors had reacted positively, requesting that medical assistance be provided and that injuries be recorded. However, in many other cases, the reaction of both prosecutors and judges was to reject or ignore such allegations, even when the persons concerned had visible injuries.

The CPT reiterates its recommendation that, whenever criminal suspects brought before a prosecutor or judge allege ill-treatment by law enforcement officials, the prosecutor/judge record the allegations in writing, order immediately a forensic medical examination and take the necessary steps to ensure that the allegations are properly investigated. Such an approach should be followed whether or not the person concerned bears visible external injuries. Further, even in the absence of an explicit allegation of ill-treatment, the prosecutor/judge should request a forensic medical examination whenever there are other grounds to believe that a person brought before them could have been the victim of ill-treatment.

3. Investigations into allegations of ill-treatment

22. Once again the delegation conducted an assessment of the effectiveness of investigations into allegations of ill-treatment by the prosecutorial authorities in light of the efforts invested in training of prosecutorial and police staff on the Methodology for the Conduct of Investigations into Allegations of Torture and Ill-treatment by the Police (Methodology).¹⁵ In this respect, it is also important to note

15. The Methodology has been adopted as a mandatory instruction for prosecutors and police officers and provides practical guidelines consisting of the following elements

(1) Investigations into allegations of ill-treatment by the police shall be conducted by the competent prosecutor, who may, in exceptional cases, entrust the SUKP with information-gathering activities.

(2) The prosecutor and the SUKP officers involved in the investigation shall be independent, both formally and in fact, from the persons whose actions are being investigated.

(3) Police officers whose actions are under investigation shall be prevented from interfering with the investigation.

(4) The prosecutor may, through the SUKP, initiate a procedure to suspend the accused police officers until the investigation is completed.

(5) Police officers shall not be present during the questioning of witnesses, including injured persons; exceptionally, if the presence of police officers is deemed necessary for security reasons, the questioning of witnesses may be attended by police officers not involved in the incident under investigation.

(6) Injured persons or witnesses who have been deprived of their liberty should be taken to places where the police officers responsible for their ill-treatment cannot interfere with them.

(7) All medical examinations of injured persons deprived of their liberty shall be carried out out of earshot and, if possible, out of sight of police officers or prison guards.

(8) In cases of ill-treatment by the police, all measures and actions to preserve evidence shall be taken as a matter of urgency, especially those which may be difficult or impossible to retrieve at a later stage (e.g. photographing injuries, collecting medical documentation and objects used during the ill-treatment, taking photographs and traces of evidence from the scene of the alleged crime, statements by the accused, witnesses and injured persons, etc.).

(9) Only the prosecutor may decide which evidentiary measures and actions are to be taken.

that the Committee of the Ministers of the Council of Europe had decided on December 2022 to close the supervision of important ECtHR judgments in violation of the procedural limb of Article 3 of the ECHR (namely, the so called Stanimirović group of cases) due to the fact that the failure of the Serbian authorities to investigate those cases had become statute-barred.¹⁶

23. At the outset of the visit the delegation was informed of the fact that a working group composed of representatives of various Ministries and of the Republican Public Prosecutor was, as part of a wider reform of the CC, proposing amendments to Article 136 and 137 of the CC taking into consideration the recommendation of various international monitoring bodies. The Deputy Republican Public Prosecutor informed the delegation that the prevailing view within the working group was that it is necessary to strengthen the penalties for the two crimes, considering the restriction of the application of the two articles only to public officials as well as maintaining the aggravating circumstances which are now enshrined in Article 136 paragraph 2 of the CC.¹⁷

Further, activities to train prosecutors and police officers in the application of the Methodology continued and the NPM had issued an opinion highlighting its view on some problematic aspects of its implementation.¹⁷ Finally, in the context of the consultation process for the adoption of the draft Law on Internal Affairs, some NGOs had submitted amendments to strengthen the accountability system for police officers, which consisted of making the SUKP independent from the Ministry of the Interior, providing for the suspension of police officers suspected of police misconduct and their

(10) If the ill-treatment has been reported to the police or otherwise brought to the attention of the police (e.g. by a health care institution), the police officer shall immediately inform the prosecutor on duty, who shall decide on the further course of the investigation. The police officer shall take measures and actions to obtain evidence only on the instructions of the prosecutor, with the exception of measures that cannot be delayed in accordance with Article 286 of the CCP.

(11) Victims may be interviewed only by the prosecutor; the interview of injured parties should always be audio or video recorded, where technology permits.

(12) Prosecutors should conduct urgent investigations in cases of ill-treatment and may seek the assistance of forensic, medical and other experts in identifying, securing, identifying, preserving and describing evidence; they should ensure that the course of the inquest is photographed and, if possible, videotaped; the photographs and videotapes shall form an integral part of the inquest report.

(13) If the body of the accused or of the injured person bears signs or consequences of a crime, the public prosecutor shall examine the person, irrespective of his or her consent, or order a forensic examination if the physical examination of the person requires special expertise. During the examination of the injured person, the forensic doctor shall record the size and shape of the injuries using a ruler and a pencil, using a ruler and a colour scale; depending on the manner in which the alleged ill-treatment was committed, he shall take biological samples from the clothing and footwear of the injured person and of the injured person and the accused, in order to collect all the necessary evidence.

(14) The medical report should include a detailed description of all injuries and their location and distance from anatomical landmarks, according to forensic standards, such as: shape (size and colour) (size and colour), changes and direction of the injuries, their age and possible causes, the time at which they were inflicted.

(15) In cases of alleged ill-treatment, the public prosecutor should order forensic examinations as soon as possible.

(16) In cases where the injured person has been examined by a doctor or other medical practitioner, it is necessary to establish whether any influence has been exerted to conceal or alter the findings.

(17) At the request of the court, retained data (lists of telephone calls, base stations used, GPS on the Tetra system) should be analysed to establish the presence of the police officer and the injured person at the place where the alleged ill-treatment took place.

(18) Police officers accused of ill-treatment may only be questioned by the prosecutor. If two or more police officers are suspected of ill-treatment, they should always be questioned separately.

(19) The prosecutor should take appropriate measures (e.g. issue a detention order or request a pre-trial investigation) to prevent any communication between the accused and their colluders.

16. See in this respect the decision of the CoE Committee of Ministers 1451st meeting, 6-8 December 2022 (DH) H46-38 *Stanimirović group v. Serbia* (Application No. 26088/06).

16. Article 136, paragraph 2 of the CC reads as follows: "If extortion of confession or statement is aggravated by extreme violence or if extortion of statement results in particularly serious consequences for the accused in criminal proceedings, the offender shall be punished with imprisonment from two to ten years."

17. In particular, on the need to secure important evidence in a timely manner and to ensure enhanced cooperation between the SUKP and prosecutors. See in this respect the opinion of the Protector of the Citizen of 17 January 2022.

removal from office in case of conviction for the same criminal offences. At the time of the visit, such comments had not been taken into account by the Ministry of Interior (see paragraph 10).

24. To this end the delegation reviewed the 88 investigative files concerning investigations on Articles 136 and 137 of the CC initiated by the three Belgrade Basic Prosecutors from 1 January 2022 to March 2023. Out of 88 cases, in only nine cases indictments had been raised and in the rest of the cases investigations were either still pending or had been dismissed.¹⁸

The review of the investigative files revealed that, in general, prosecutors were aware of the need to implement the Methodology and its principles, but in practice several systemic and mechanical deficiencies still affected investigations and made them less efficient. These related to the following aspects:

- i. Problems in the identification of criminal cases: several delays and inconsistencies were noted in the identification of cases and the formation of the relevant files, in terms of delayed reporting from various sources (including delayed filing of complaints by alleged victims and delayed reporting of cases by prison establishments to the prosecutorial authorities) and the initiation of investigative procedures. This contributed to significant delays which resulted in the loss of important evidence and material. Although such actions did not appear to be intentional in principle, they could also be related to the fact that the spirit of the Methodology is still not concretely understood despite the numerous training activities.

For example: a detained person, who was allegedly ill-treated by police officers during his arrest on 12 June 2019, was medically screened at the Belgrade District Prison on 15 June 2019 by the prison doctor, who registered injuries to his head and body, which he described as “allegedly having been inflicted by the police”. The alleged crime was only reported by the victim at a hearing on 24 July 2019 in front of the Belgrade Basic Court (while testifying in court in relation to another criminal offence). The court forwarded the complaint to the Belgrade I Basic Prosecutor's Office only on 23 March 2020. It took seven months for the Belgrade I Basic Prosecutor to request medical documentation from the Belgrade District Prison on 2 October 2020 and then to forward the file to the SUKP with a request to collect relevant information on 3 November 2020. The Prosecutor requested and received a forensic medical examination of the alleged victim on 25 May 2021 and interviewed the victim and other witnesses only during the summer and autumn of 2022. The case was dismissed by the Belgrade I Basic Prosecutor on 3 March 2023 due to lack of evidence of police misconduct.

Furthermore, in the case described under point xi paragraph 13, the injuries on the victim's body were detected during his first examination at Belgrade District Prison on 17 October 2022, but it took the prison's doctor 18 days to inform the Director of Belgrade District Prison, who immediately forwarded the case to the Belgrade III Basic Prosecutor on the same day (that is, 15 November 2022). In the meantime, the victim's family reported the ill-treatment separately to different institutions (namely, the Ombudsman, the SUKP, the police and the Basic Prosecutor), which resulted in a total of eight files being opened on the same case at the Belgrade III Basic Prosecutor's Office.¹⁹ The SUKP detected this parallelism and informed the Belgrade III Prosecutor, who eventually combined all cases and assigned the common case to a single prosecutor. The file shows that the entire investigation could have been jeopardised if the SUKP had not detected the parallelism and proactively secured the CCTV footage at the Zemun Police Station against deletion, which was prompted by the fact that the Ombudsman had immediately informed the SUKP of this allegation on 25 November 2022. At the time of the CPT's visit, the case was still pending and the detainee had been interviewed by the SUKP staff in Belgrade District Prison.

18. Further, in two cases court sentences had been imposed on two law enforcement officials.

19. At least four parallel requests for information were received consecutively from the same Basic Prosecutor's Office, which means that at least four different prosecutors were working in parallel on the same case without any of them being aware of it.

- ii. Application of urgency and prioritisation of cases: once the case is opened and officially enters the pre-investigation phase, it is normally assigned to a prosecutor without any specific order of urgency and priority.²⁰ According to the Methodology, cases of potential violation of Articles 136 and 137 should be prioritised by prosecutors, but in practice they are received among many others and, due to the overload and limited human resources of prosecutors, it is difficult to ensure a speedy investigation. This leads to long delays which affect the efficiency of the investigation and the preservation of important evidence. For example, the analysis of the relevant investigation files showed that the prosecutor usually hears the victim as a citizen and then forwards additional requests to the SUKP with significant delays, and meanwhile there is little evidence of investigative action and communication with the SUKP. Treating criminal offences related to ill-treatment like any ordinary criminal case inevitably dilutes the efforts of the prosecutors.

For example: a detained person who alleged that he had been ill-treated by police officers during the search of his home on 9 June 2020 filed a complaint with the SUKP, who forwarded it to the Belgrade II Basic Prosecutor on 2 July 2020, who asked the SUKP to carry out relevant checks on 1 September 2020. In his memo, the prosecutor gave general instructions to the SUKP on the circumstances to be investigated, such as conducting interviews with victims as well as with all possible perpetrators. However, no instructions were given on how to avoid possible collusion between police officers in coordinating their statements.²¹ The SUKP did not report back to the Belgrade II Basic Prosecutor until 27 January 2021, stating that two other police officers had been present at the time of the alleged ill-treatment and that the victim's alleged cries for the police to stop hurting him had been heard by an additional witness. Notably, the SUKP failed to interview any of these newly discovered witnesses, but instead returned the file to the Belgrade II Basic Prosecutor awaiting further instructions, which were not received until 8 September 2021. In total, it took the Belgrade II Basic Prosecutor two months to forward the complaint to the SUKP for the relevant information gathering, which took another four months. The SUKP did not show a proactive approach in taking action outside the instructions of the Belgrade II Basic Prosecutor when it discovered additional witnesses to the alleged crime. The case was dismissed by the Prosecutor on 8 November 2021.

- iii. Failure to apply appropriate investigative techniques: several specific aspects and requirements of the Methodology are not applied in practice during the investigation process. These relate in particular to the fact that prosecutors often delegate relevant investigative actions to the SUKP with either general guidelines such as “undertaking all necessary measures”, or absence of clear instructions. Some prosecutors also have the practice of delegating the request for information to the relevant police administration to which the alleged perpetrators belong rather than to the SUKP, which is also contrary to the Methodology. Furthermore, in very few cases was a forensic medical examination ordered.²² Consequently, prosecutors usually rely on medical certificates issued by the relevant hospitals, which are often of poor quality and in some cases even lend little credibility to the medical documentation of injuries with photographic evidence made in the relevant prison establishment. Finally, despite a clear provision and explanation in the Methodology on the need to prevent collusion and coordinated statements, most prosecutors issued decisions refusing to prosecute (facilitated, *inter alia* by delays in investigations).

For example: a detained person who alleged that he had been ill-treated by the police on 28 August 2020 at Zvezdara Police Station had filed a complaint with the SUKP on 21 September 2020, which was forwarded to the Belgrade I Basic Prosecutor on 25 September 2020. The victim was not interviewed by the Prosecutor until 4 March 2021 and the suspects were not interviewed by the SUKP until 25 May 2021, after they had had sufficient time to coordinate their statements. The Belgrade I Basic Prosecutor only interviewed the victim on

20. Several prosecutors from the three Belgrade Basic Prosecutor Offices told the delegation that they were well aware that crimes under Articles 136 and 137 of the CC should be prioritised, but that they were de facto unable to apply this urgency due to other co-existing priorities.

21. As well as in respect of several other cases examined by the delegation.

22. As this is supposed to be done during the subsequent investigation phase.

4 March 2021 and then sent the file to the SUKP on 5 March 2021 for the “collection of relevant information”. The case was later dismissed by the Belgrade I Basic Prosecution (after receiving a report from the SUKP and a forensic expert opinion). Interestingly, several witnesses had given consistent statements when questioned in the course of parallel criminal proceedings against the victim for another drug-related offence. The Belgrade I Basic Prosecutor did not consider it necessary to re-interview these witnesses, as their statements were made in the context of the drug trafficking case and not in relation to the alleged ill-treatment of the victim.

- iv. Decisions by prosecutors to dismiss criminal complaints were often poorly reasoned and appeared to give little, and in some cases no, credence to consistent medical reports, while relying more heavily on the concordant and collusive statements of police officers, who were given ample opportunity to coordinate their testimonies. For example, a detainee arrested in Vrbas on 23 March 2021 was admitted to the Novi Sad District Prison the following day with injuries on his back in the form of striped blue marks and a cut on the index finger of his right hand, which he alleged were inflicted by police officers from the Vrbas Police Station who allegedly hit him with rubber truncheons. The injuries were described in a body chart by the prison doctor and the medical report also found them to be consistent with the detainee's allegations. The file reached the Vrbas Basic Prosecutor on 3 September 2021 (five and a half months after the facts of the case). A report by the SUKP was submitted, based on the interrogation of the police officers, who denied the use of truncheons or any other means of force, stressing that only handcuffing was used as a coercive measure. No medical expert opinion was requested on the compatibility of the injuries with the allegations, although the prosecutor had medical documentation and photographs of the injuries. The criminal complaint was dismissed by the Vrbas Basic Prosecutor on 18 November 2021.²³ During its visit to Novi Sad District Prison, the delegation examined medical report No. 31/23-03 of 26 March 2021, drawn up by the prison's medical service and forwarded by the director of the prison to the Vrbas Basic Prosecutor on 22 May 2020. The injuries were described as follows: “*tram line hematomas: they are two oblique in the right shoulder blade (8 cm), two diagonal hematomas in the left lumbar region (20 cm) and two diagonal between the ribs (20 cm)*”. The forensic doctor on the delegation considered that there was a high degree of consistency with the detainee's allegations of ill-treatment.

The case is an example of a poorly reasoned decision by the Vrbas Basic Prosecutor, which lacked credibility and made no reference to the prison medical report, which accurately described the injuries and established their compatibility with the allegation of ill-treatment.

The findings of the 2023 visit concerning the conduct of prosecutorial investigations into allegations of ill-treatment by the police indicate that the spirit of the Methodology and its implementation have so far not lived up to expectations.

25. The CPT recommends that the work of prosecutors be reorganised and that a possible specialisation be introduced, with designated prosecutors assigned to cases relating to Articles 136 and 137 of the CC at the level of each Basic Prosecutor, in order to ensure a less dispersed and more targeted impact of training activities, through the application of techniques aimed in particular at:

- **Eliminating obstacles to the detection and identification of cases of alleged ill-treatment by the police through an improved system of recording and reporting injuries and the rapid distribution of cases to the designated prosecutor.**
- **Applying appropriate urgency and prioritisation to such cases at the pre-investigation stage, in particular with regard to interviewing the alleged victim, promptly securing key evidence, giving clear, comprehensive and precise instructions to the SUKP and maintaining contact with them at all stages of the pre-investigation stage.**
- **Applying appropriate investigative techniques as contained in the Methodology, in particular with regard to the delegation of investigative measures to the SUKP rather**

23. Stating that “*there was no evidence from which it could be concluded with a certain degree of certainty that the aforementioned police officers committed the crime of ill-treatment and torture.*”

than to the relevant police service, adopting measures to prevent coordinated statements by police officers proactively ordering forensic examinations and crime scene investigations and finally ensuring that alleged victims of ill-treatment are always interviewed by the prosecutor as provided for in the Methodology.

- Ensuring more consistent and proactive cooperation between prosecutors and the SUKP throughout the investigation process in terms of gathering information and taking special investigative measures (such as ordering forensic examinations, crime scene investigations).
- Ensuring that the prosecutor's decisions on whether to dismiss a criminal report or to open a formal investigation are duly reasoned and always based on a rigorous examination of the evidence gathered and, in particular, the consistency of the injuries sustained by the detained persons and the credibility of their allegations with the concordant and collusive statements of police officers.

26. The CPT also recommends that the Republican Public Prosecutor reflect on the need to assess more rigorously the performance of prosecutors in relation to the Methodology and to allocate the necessary resources to the specialised prosecutors involved in the investigation of offences under Articles 136 and 137 of the Criminal Code.

Further, the Committee would like to be kept informed of any developments with regard to the amendments to the CC concerning the above-mentioned articles.

27. As mentioned in paragraph 22 above, the SUKP continued to assist prosecutors in gathering relevant information on cases of ill-treatment referred to it by the prosecution authorities or resulting from complaints lodged directly with it by citizens. The staffing of the SUKP had increased considerably since the CPT's previous visit and amounted to 184 officers out of 200 budgeted posts.²⁴ At the beginning of the visit, the delegation was informed that, since January 2021, it had forwarded 39 files to the competent prosecution authorities out of 181 complaints received from citizens concerning possible police misconduct against detained persons.

The CPT noted positively that the SUKP conducted such investigations independently, rather than relying on police officers, and had issued several instructions on the need to preserve relevant evidence in cases of suspected ill-treatment (for example, on the need to preserve CCTV recordings, etc.).²⁵ However, the work and activities of the SUKP in the investigation were also hampered by the delays in receiving a request from the prosecutor and, in some cases, the general guidelines attached to it, as well as by the lack of clarity on who should carry out and order certain special investigative measures, such as ordering forensic expertise, photographing injuries and other forensic activities to be carried out by crime technicians.

The CPT remains convinced that, as highlighted in its previous reports, the Serbian authorities should ideally establish a fully independent police complaints mechanism as a long-term goal. In this context, the Committee takes positive note of the reinforcement of the staff of the SUKP and its actions in seeking to secure evidence promptly during the investigation of cases of ill-treatment by the police, as well as of the need to maintain a proactive approach in its so-called information-gathering activities. **The CPT recommends that the SUKP liaise and develop a stronger interface with the relevant prosecutors in order to better focus on the application of the Methodology and its main principles in light of the recommendation formulated in paragraph 25.**

28. With regard to the disciplinary responsibility of police officers for misconduct towards detained persons, the same provisions were in force at the time of the CPT's visit, which meant that disciplinary proceedings were conducted by the same police administration to which the officer in question belonged. Furthermore, problems remain with regard to the fact that the temporary suspension of police officers involved in the alleged ill-treatment of detained persons is only provided

24. They were 145 at the time of the 2021 ad hoc visit.

25. Beyond the statutory 15 days.

for at the time of their possible remand in custody²⁶ although the Methodology foresees the possibility for the prosecutor to initiate a procedure for the suspension of a police officer until the completion of the investigation.²⁷ Finally, the dismissal of police officers was only provided for in the event of a police officer being convicted to a sentence of more than six months of imprisonment for offences related to Articles 136 and 137. Unfortunately, the new draft Law on Internal Affairs did not attempt to change these very lenient thresholds and the amendments proposed by various NGOs to this effect were rejected.

The CPT considers that the use of a suspension measure is sometimes necessary, particularly to send out a clear message of “zero tolerance” of ill-treatment. **The CPT recommends that the Serbian authorities ensure that police officers against whom *prima facie* evidence of ill-treatment exists are suspended from carrying out duties which place them in contact with the public, until the investigation into the alleged ill-treatment is completed.**

Further, the CPT recommends that the Serbian authorities take the above-mentioned precepts into account in the process of adoption of the Law on Internal Affairs.

26. Article 217 of the Law on Police reads as follows: “A police officer may be temporarily removed from work, on the reasoned proposal of the manager, when criminal proceedings have been initiated for a criminal offense for which he is being prosecuted *ex officio* or disciplinary proceedings have been initiated due to a serious breach of official duty, if his presence at work would harm the performance of his duties or violate reputation of the Ministry, or could interfere with the process of gathering evidence or the course of criminal or disciplinary proceedings.”

27. See in this respect Point 6.6 of the Methodology.

4. Safeguards against ill-treatment

a. introduction

29. In its previous reports, the CPT has formulated concrete recommendations as to how the basic safeguards to be afforded to criminal suspects in police custody could be strengthened in order to effectively prevent ill-treatment.²⁸ At the outset of the visit, the delegation was informed of the concrete steps taken by the Serbian authorities in this respect, in particular as regards the changes introduced in the custody records (which now record the steps taken to contact a lawyer, their arrival at the police station and the confidential conversation with the detained person) and the gradual introduction of the position of the custody officer in police detention facilities of the main urban centres.

Other elements remained at an embryonic stage, in particular the fact that 17 rooms for audio-video recording of interviews with suspects had been set up at various police stations but were not in use due inter alia to the lack of some technical equipment. Furthermore, a training manual on investigative interviewing for police officers was still under development. Finally, a Memorandum of Understanding (MoU) between the Ministry of the Interior and the Ministry of Health was being developed for the medical examination and the provision of healthcare assistance for persons in police custody.

The Committee would like to be kept informed of any developments concerning the progress of the above-mentioned activities, in particular with regard to the gradual introduction of the role of custody officers in police detention facilities, the adoption of a training manual on investigative interviewing by the Police Academy and the conclusion of a Memorandum of Understanding between the Ministries of the Interior and Health on the provision of healthcare to persons in police custody.

b. notification of custody

30. The right of a detained person to notify a third party of their detention is guaranteed by Articles 69, 291 and 293 of the CPC and, as was the case during previous visits, was in principle granted to the majority of persons interviewed by the delegation. This was evidenced by the relevant records of detention, which contained a reference to the persons notified and, in principle, the date of this act. Nevertheless, in some cases, detained persons told the delegation that their request to notify a third party of their detention had been rejected by the police on the grounds that this would be done at the time of the confirmation hearing. Furthermore, the detention record did not indicate whether the detained person had been informed by the police of the act of notification. Further, the custody records examined by the delegation did not always clearly show that detained persons had waived their right to notify a third party.

The CPT calls upon the Serbian authorities to ensure that all persons deprived of their liberty by the police, for whatever reason, are granted the right to notify a close relative or third party of their choice about their situation as from the very outset of their deprivation of liberty (that is, from the moment when they are brought to the police station). Further, detained persons should be provided with feedback on whether a close relative or other person has been notified of the fact of their detention and waivers of notification should be duly recorded in the custody registers.

c. access to a lawyer

31. Pursuant to Articles 68 and 69 of the CCP, the arrested person/suspect has the right to a defence counsel of their own choice as well as an *ex officio* lawyer appointed through a list of the relevant Bar Association, to a confidential conversation with the same (with visual supervision only) and to have the defence counsel present during questioning. As regards the exact moment when the right of access to a lawyer becomes effective, the police are obliged to provide effective access to a lawyer to persons deprived of their liberty at the time of the issuance of the decision on

28. See for example paragraphs 34-45 of the CPT's Report on its 2021 periodic visit to Serbia CPT (2021) 36.

provisional detention (that is, within two hours of the formal deprivation of liberty). In particular, Article 87 of the Law on Police stipulates that the police must refrain from any action (including interrogation of the suspect) until the lawyer arrives at the police station. At the beginning of the visit, senior representatives of the Serbian police informed the delegation that formal questioning could only take place before the prosecutor and that they could only carry out so-called information-gathering activities in the initial stages of the detention of a criminal suspect. As mentioned in paragraph 13 such information gathering interview sessions could often escalate in activities leading to psychological and physical coercion of suspects in order to induce them to provide information to the police about a particular criminal offence or on other related cases.

As mentioned in paragraph 44, the Serbian authorities had introduced amendments to the custody records, which now required the police to record the time of the lawyer's contact, the lawyer's presence at the police station and the beginning and duration of the confidential interview with the detained person.

The findings of the 2023 ad hoc visit showed that, in principle, criminal suspects had access to a lawyer and were able to consult them within a few hours of being deprived of their liberty. This was confirmed by the detention records and minutes examined by the delegation. Nevertheless, in many cases, suspects stated that their requests for the assistance of a lawyer were delayed by police officers using various ploys (such as e.g. the fact that a lawyer was not needed in the early stages of detention, or that requesting a lawyer would imply their culpability) and that police questioning began without the presence of a lawyer. As a result, lawyers were only present at the police station when the decision on provisional detention was to be taken, in order to put their stamp on it. In addition, detention records still did not indicate whether suspects had waived their right to a lawyer, and detention records often contained contradictory and unrealistic entries (for example, the time of the lawyer's presence at the police station was prior to the start of detention of the detainees). By letter received on 13 June 2023, the Serbian authorities informed the Committee that, in their view, the role of a lawyer at the initial stage of deprivation of liberty was to examine the relevant file in order to advise the detained person on the possibility of lodging an appeal against the decision on provisional detention.

The CPT recalls that in its experience which is inter alia confirmed by the serious findings of the 2023 ad hoc visit to Serbia, it is during the period immediately following the deprivation of liberty - and, a fortiori, during which the individual is subjected to police questioning under an investigation procedure - that the risk of intimidation and ill-treatment is at its greatest. Consequently, the possibility for persons taken into police custody to have access to a lawyer including the possibility to have a confidential conversation with the same during that period is a fundamental safeguard against ill-treatment. The existence of that possibility will have a dissuasive effect on those minded to ill-treating detained persons; moreover, a lawyer is well placed to take appropriate action if ill-treatment actually occurs. Further, the CPT considers that, in order to fully implement the spirit and the letter of the CCP and the Rulebook on Police Powers (RPP), police officers need to accept the legitimacy of the procedural rights of suspects and to understand the ways in which providing prompt access to a lawyer can ensure the credibility and reliability of investigative procedures, rather than considering the role of the defence as antithetical to an effective investigation and fair trial. Further, the accurate recording in custody records of all aspects relating to the application of this right is essential.

The CPT calls upon the Serbian authorities to take steps to ensure that the right of access to a lawyer applies effectively as from the very outset of the deprivation of liberty by the police and is implemented in practice, in light of the above remarks.

32. Since 2019, a centralised system had been in place for the appointment, on a rotating basis, of ex officio lawyers from a list provided by the Bar Association in cases where a suspect had not chosen²⁹ or could not afford a lawyer of his or her choice. Furthermore, the adoption of the Law on Legal Aid had introduced a procedure for the appointment of lawyers at the full expense of the

29. Article 74 of the CCP stipulates that mandatory defence.

State.³⁰ The findings of the delegation indicate that the system of appointment of *ex officio* lawyers provided for a prompt and impartial selection of legal counsel, who regularly attended a police station at the request of the police, as evidenced by the relevant custody registers. As regards the quality of the services provided by the *ex officio* lawyers as a safeguard against ill-treatment, particularly in relation to criminal suspects who showed visible signs of injuries at the time of their attendance at police stations, the delegation was impressed by the sensitivity and professionalism with which some younger *ex officio* lawyers in particular assisted their clients. In other cases, however, the delegation was confronted with the same long-standing complaints from criminal suspects as to their passivity with regard to their complaints of ill-treatment, their reluctance to raise issues or even their refusal to speak in private, stressing that they would have such an opportunity later at the confirmation hearing.

The CPT recommends that *ex officio* lawyers should be reminded of their key role in preventing and reporting ill-treatment by attending police stations and intervening at the outset of any deprivation of liberty, by representing to the best of their ability the interests of the persons they are mandated to assist, and by taking appropriate action where there are indications that such persons are being (or may have been) ill-treated by the police. Steps should be taken in consultation with the relevant bar associations to promote, through initial and continuing training, a culture in which it is considered unprofessional not to pursue allegations of police ill-treatment.

33. Article 289 of the CCP, which regulates the summoning of a suspect, stipulates that “the suspect shall be informed in the summons that they have the right to be accompanied by a defence lawyer” and that the person concerned shall be informed of their rights as a detained person if they become such during questioning. However, there is no reference to the right to defence counsel in Article 288 of the CCP, which regulates the summoning of a citizen for the purpose of obtaining information, which may last up to a maximum of four hours.

During the visit, the delegation noted that, in many cases, persons summoned to a police station as citizens, mainly by telephone, were not informed of their legal status and their rights under the law. Interviewed detainees firmly stated to the delegation that the police deliberately did not clarify their legal status during the various stages of questioning, which could be quite unpleasant and violent (see paragraph 13). These suspects only understood *a posteriori* that the police were deliberately concealing their legal status in order to maximise their efforts during the statutory four-hour period.

34. The CPT reiterates its recommendation that the Serbian authorities take active steps to ensure that police officers clearly communicate the legal status of persons summoned to a police station at all stages of questioning, in line with Articles 288 and 289 of the CCP. In particular, if there are elements to suggest that a person is a criminal suspect, the interview should be stopped, an information sheet should be given to the person, and the interview should only be resumed in the presence of a lawyer. Furthermore, such a phase should be subject to audio and video recording (see paragraph 16).

d. access to a doctor

35. Under Article 69 of the CPC, arrested persons are entitled to request an examination by a doctor of their own choosing without delay and, if their doctor is unavailable, by a doctor chosen by the public prosecutor or the court.³¹ Article 22 of the RPP sets out that police officers bringing individuals into custody shall arrange for the provision of professional medical assistance to them if these individuals have visible injuries or are complaining about pain. Further, Article 36 of the RPP also lays down that police officers may be present during the medical examinations of a detained person only on the request of the medical staff and for reasons of their security.

30. According to Article 27 of the Law on Legal Aid, applicants must submit an application to the relevant city or municipal administration, together with proof of their financial status, and should in principle receive a response within eight days.

31. The public prosecutors may also order such an examination *ex officio* pursuant to Article 293 of the CPC.

36. In practice, the findings of the delegation indicate that detained persons in the course of their periods of police custody generally received medical assistance in the form of the intervention of an ambulance to the police station or escorting to a nearby emergency unit. However, the minutes on the detention of persons in police custody examined at the police establishments visited confirmed that police officers were very often present during medical examinations of detained persons.³² In respect of several criminal suspects in police custody who clearly displayed visible injuries (subsequently photographed in prison) the relevant minutes on detention drawn up by the custody officer recorded that no injuries were visible at the time of their admission in a police detention area. In addition, several remand prisoners who alleged physical ill-treatment told the delegation that, before being transferred to the police detention area, they had been instructed by police inspectors what to say in case healthcare staff from an emergency unit would enquire about their visible injuries.³³

The recommendation outlined in paragraph 19 is also applicable in this context.

37. In terms of continuation of therapy, findings of the delegation indicated that there was in principle no obstacle to the provision of medication and therapy, provided that the detained persons or their families could provide a relevant prescription.

e. information on rights

38. Pursuant to Article 29 of the RPP, persons deprived of their liberty by the police should be informed of their rights orally and by being given a written notification in their mother tongue or in a language which they understand. The findings of the delegation during the ad hoc visit in 2023, based on consultation of the relevant custody registers indicate that, in principle, information sheets were signed by criminal suspects soon after their arrival at a police station (both as persons brought in for questioning and at the time of issuing the decision on detention). In practice, such a procedure appeared to be rather perfunctory, as many suspects could not even remember having signed it and were not allowed to keep a copy of it. With regard to the content of the information sheets, there were different versions in use and not all of them complied with Article 29 of the RPP with regard to information on the right of access to a lawyer and a doctor and to inform a third party of their detention (including consular authority).³⁴

39. The CPT calls upon the Serbian authorities to invest the necessary efforts in order to ensure that particular care is taken by police officers at the time of arrest and at the subsequent phases of detention to ensure that detained persons are actually able to understand their rights; it is incumbent on police officers to ascertain that this is the case. Further, all of the information sheets in use by the Serbian Police for the detention of criminal suspects should include a provision on the rights of access to a lawyer and a doctor, and the notification of custody to a third party (including a consular authority) pursuant to Article 29 of the RPP. Further, effective steps should be taken to ensure that detained foreign nationals who do not understand the Serbian language are promptly provided with the services of an interpreter, and that they are not requested to sign any statements or other documents without this assistance. Finally, all persons³⁵ deprived of their liberty should obtain information about their procedural rights in a format accessible to them, depending on their needs: e.g. written- size, or writing in simple and accessible language, orally, different needs of persons.

32. Article 36, paragraph 3 of the RPP reads as follows: "Police officers, only at the request of medical staff, for reasons of security of medical staff, may be present during the medical examination of the detained person and this presence shall be only by officers of the same sex as the person being examined".

33. For example, detained persons had been instructed to state that the injuries in question were the result of an accidental fall prior to the arrest or sport training.

34. This concerned both versions of the information sheets: the rights of persons brought in (*prava dovedenog lica*) and detained (*prava zadržanog lica*).

35. E.g. persons with sensor- or learning disabilities, foreign nationals or persons with functional illiteracy.

f. conduct of interviews

40. At the outset of the visit, the delegation was informed that more than 1 300 police officers had been trained in investigative interviewing skills (based on the United Kingdom PEACE model)³⁶ as part of their induction training and that the same module had been introduced as a refresher course for serving police officers at the Police Academy in Sremska Kamenica. Senior police officials also informed the delegation that, in their view, police interviews with criminal suspects or detained persons, conducted pursuant to Article 299 of the CPC, should be considered as so-called information-gathering activities rather than interrogations which, pursuant to Article 293 of the CPC, must take place before a prosecutor.

In addition, a manual on investigative interviews was being developed with the assistance of the Council of Europe Office in Belgrade.³⁷ In short, the Code of Conduct on Police Interviewing, as recommended by the CPT in its 2021 report, had not yet been developed, although activities were underway for its adoption.

41. In the course of the 2023 visit, the delegation again received numerous allegations of prolonged police interviews of criminal suspects, following their arrest or summons. These persons were often handcuffed to furniture and were not offered breaks to rest during the interview or offered access to water and food. In a few cases, detained persons were allegedly interrogated by the police in stress positions, with a hood or plastic bag over their head, a soaked rag in their mouth or a helmet on their head. It is clear that a code of conduct on police interviews, as well as the mandatory audio-video recording of police interviews (including so-called information-gathering from criminal suspects), is needed.

Furthermore, with regard to the questioning techniques used by police officers during the initial interview with a criminal suspect, the delegation had the clear impression that, despite the training provided, the techniques used by police officers were clearly geared towards obtaining a confession rather than more sophisticated so-called information-gathering techniques. Some police inspectors told the delegation that such a process would take time and possibly a generational gap to bear fruit, as it required a profound change of mentality.

42. In its previous report on the 2021 periodic visit to Serbia, the CPT underlined the need for a paradigm shift from a “suspect to the evidence” approach to an “evidence to the suspect” approach. The CPT also noted that the use of investigative interviewing techniques by police inspectors, developed by several police services in Europe and advocated by eminent legal experts in the field of torture prevention, improves the flow of information and communication and reduces the risk of human error and false accusations. The findings of the 2023 ad hoc visit indicate that such a paradigm shift in the interviewing of summoned citizens and criminal suspects has not been implemented. Furthermore, the delegation in the course of its visit did not get the impression that Serbian police officers were interested in abandoning a system of informal gathering of information clearly based on extracting confessions from criminal suspects. In the Committee's view, such a paradigm shift requires robust measures coming from senior officials, who must become advocates of such a change.

The CPT calls upon the Serbian authorities to actively promote such a paradigm shift from the principle of proceeding “from the suspect to the evidence” to one focused on “from the evidence to the suspect” notably through robust measures³⁸ such as training in proven scientific professional methods of investigative interviewing and the mandatory audio-video recording of all police interviews (see paragraph 16), as well as the strict regulation and

36. The PEACE method of investigative interviewing is a five-stage process in which investigators seek to establish rapport and allow a suspect to provide an uninterrupted account of events before presenting the suspect with evidence of inconsistencies or contradictions.

37. The manual in question was to become an integral part of the Police Academy's curriculum

38. See in this respect Rule No. 6 of the “Principles on Effective Interviewing for Investigations and Information Gathering” (the Méndez Principles) adopted in May 2021 by a group of eminent international legal and police experts in the field of policing and torture prevention. The Méndez Principles have since been welcomed and cited by several United Nations bodies as well as the CPT.

application of safeguards in the summoning of citizens suspected of crimes to police stations (see paragraph 16).

43. In its report on the 2021 visit, the CPT also recommended, as an important component of the above-mentioned Code of Conduct for Police Interviews, the mandatory audio-video recording of all police interviews in dedicated rooms, suitably resourced with the necessary audio-visual equipment. At the outset of the visit, the delegation was informed that, at national level, 17 rooms had been designated and prepared for the audio-video recording of police interviews with suspects, but that these were largely unused owing to the adoption of relevant secondary legislation on technical requirements and data storage as well as the procurement of certain technical equipment. The delegation was able to visit one such equipped room at the Novi Beograd Police Station and noted that it was not in use, despite being fully equipped.

The CPT reiterates its recommendation that the Serbian authorities set up a system for the systematic audio-video recording of all police interviews with criminal suspects conducted pursuant to Article 289 of the CCP. This would require the setting up of fully equipped interview rooms in police stations, the adoption of secondary legislation on data storage and technical requirements, and the training of staff in their use. In principle, systematic recording should cover all stages of police questioning, including the provision of information on rights at the beginning of the interview.

g. custody records

44. As mentioned in paragraph 29 the level of detail and comprehensiveness of the custody records had improved since the previous visits in light of the additional sections and information introduced following the observations of various monitoring bodies. For instance, the minutes on the detention of a criminal suspect now include information on the time at which a lawyer was appointed, their presence at the police station and the duration of the interview with the detained person. The delegation also noted that the injuries of detained persons on admission to police custody and the medical examinations were described in more detail than on previous visits. However, the delegation continued to note errors and inconsistencies in the compilation of such records, in particular incorrect dates and timing (such as lawyers being contacted before the start of the actual detention of a criminal suspect), delays in the start of the period of detention,³⁹ sections left blank etc.

The CPT reiterates its recommendation that the Serbian authorities take action to ensure that the minutes on the detention of a person provide a complete and accurate account of all significant events that take place during a detainee's time in police custody. Particular care should be taken to record accurately the time of the effective start of the deprivation of liberty and the accurate recording of all phases leading to the appointment of a lawyer, their attending a police station and the duration of the confidential interview with the criminal suspect.

5. Conditions of detention

45. The 2018 Rulebook on Conditions of Detention in Police Custody Cells regulate, *inter alia* the size of police detention cells, the provision of mattresses and bedding for detention periods exceeding 12 hours, in-cell ventilation, CCTV, a separate sanitary annex and call bells, as well as the provision of three meals a day for persons detained for more than 12 hours. At the beginning of the visit, the delegation was informed of the ongoing renovation work, mainly funded by the Norwegian Government, which demonstrated a clear will to improve conditions of detention (for example, since 2019, a total of 63 police cells have been renovated with funds from the Norwegian government and five with domestic financial resources.).

39. According to Article 32 of the RPP, the time of detention should be calculated from the beginning of the exercise of the police power to arrest a person, that is, the time of arrest rather than the time of arrival at the police station.

46. The delegation's findings indicate that, in general, the conditions in the seven cells of the 29th November Metropolitan Police, Novi Beograd and Stari Grad Police Stations remained satisfactory. Access to natural light (through a perforated metal grille), ventilation and heating were satisfactory, and cells were equipped with mattresses (detainees were provided with bedding/blankets), a semi-partitioned sanitary annex, CCTV and a call bell. In addition, the cells were generally in a good state of repair and hygiene.

However, some shortcomings were noted in the other establishments visited, in particular:

- At Zemun Police Station, two of the five cells, which had concrete platforms, a semi-partitioned sanitary annex and were between 6 and 11 m² in size, had no access to natural light and in one cell the artificial lighting was not working. In addition, the cells were not equipped with mattresses and blankets and detainees were forced to rest on the bare concrete for prolonged periods.
- At Novi Sad Police Station, the two double cells, measuring 9 and 11 m² respectively, were equipped with wooden platforms, mattresses and blankets, a call bell and a CCTV recording system. They had very limited access to natural light through a perforated metal grille. There was no ventilation system, and the atmosphere was suffocating. Police management and the Ministry of the Interior's Anti-Torture Commission had requested that air conditioning be installed, as temperatures could reach 40°C in the summer. By letter received on 13 June 2023, the Serbian authorities informed the Committee that measures had been taken to remedy the above-mentioned deficiency.
- At Ruma Police Station, the two cells, measuring approximately 8 m², were equipped with two concrete platforms, each with a mattress, blankets and linen, and were under CCTV surveillance. However, the cells in question had no access to natural light and were not equipped with a call bell.⁴⁰

47. In light of an inter-ministerial memorandum (MoU),⁴¹ persons in police custody may be placed in special cells in the remand units of the prison establishment under the custodial supervision of police officers during the statutory period of 48 hours before the confirmation hearing. In this respect, the two cells used for this purpose in the Sremska Mitrovica KPZ Remand Detention Unit, each measuring 16 m² and equipped with two bunk beds and separate sanitary facilities, were in a very bad state of disrepair and in appalling hygiene conditions. The walls were dirty and damp, the doors of the sanitary annex were broken and in one cell (5B) the lid of the ceramic toilet was broken. In addition, detainees were not provided with sheets. The NPM had made a request in 2020 to amend the MoU in order to improve the conditions of detention in the cells for police custody in a prison establishment, in particular with regard to their state of hygiene.

48. The CPT notes once again the efforts made by the Serbian authorities to renovate police detention facilities throughout the country and the progress achieved with the financial support of the Kingdom of Norway. Nevertheless, **the CPT reiterates its recommendation that the Serbian authorities take actions to rectify the persistent shortcomings identified by the Committee concerning conditions of detention in police detention areas. These relate in particular to the need to:**

- **Equip the cells of Zemun Police Station with mattresses and blankets to be provided to detained persons and limiting the use of cells without access to natural light to the maximum possible extent.**
- **Provide the two cells of Novi Sad Police Station with a proper ventilation system which would also allow the temperature in both cells to be refreshed in the summer.**
- **Limit the accommodation of detained persons to the two cells of Ruma Police Stations to a few hours and equip them with a call bell.**

40. The sanitary facilities were located outside the cells.

41. The MoU was concluded by the two Ministries in 2014 based on the relevant provisions of the Law on the Enforcement of Criminal Sanctions and the Law on Police.

In addition, the deplorable hygiene and dilapidated conditions of the two cells in Sremska Mitrovica KPZ in use for police custody, should be addressed through their prompt renovation, including the repair of sanitary facilities, the replacement of beds and the provision of beds and toiletries to detained persons. In this regard, steps should be taken to ensure that the Ministry of the Interior and Ministry of Justice Memorandum of Understanding is fully implemented and does not result in a case of neglect of responsibility by either of the two bodies.

49. The custody records showed that, in principle, detained persons were provided with food at regular intervals once admitted to a police detention unit.⁴² However, the provision of food continued to consist only of sandwiches unless the family would provide an alternative. Further, detained persons spending long hours in inspectors' offices for information gathering and questioning were not in principle being provided with food unless their families would deliver it to the police station.

The CPT reiterates its recommendation that the Serbian authorities ensure that persons in police custody are offered food at regular intervals during their period of detention. Furthermore, the CPT considers that persons in police custody should be provided with at least one hot meal per day, which should be more substantial than a sandwich. Further, different menus based on health and cultural needs should be available in line with the provisions of Article 37 of the RPP.

42. Article 37 of the RPP reads as follows: "The detained person shall have food, three meals a day (breakfast, lunch, dinner) in appropriate time intervals, including the right to specific food for health reasons or religious beliefs. The detained person shall be provided with one meal within six hours of the moment of detention, and if detention lasts longer than 12 hours, the person shall have three meals".

B. Prison establishments

1. Preliminary remarks

50. The 2023 ad hoc visit also provided an opportunity to assess the conditions of detention of pre-trial detainees following the previous visits. In December 2022, the Serbian penitentiary system had adopted a strategic document entitled “Strategy for the Development of the System for the Enforcement of Criminal Sanctions 2022-2027”, which reiterated the principles and commitments made previously on the need to control the number of pre-trial detainees and to improve the prison estate. On 31 December 2022, the total population was 10 849 prisoners with a total capacity of 11 057 places and the rate of pre-trial detention was 19%. An overview of the rate of pre-trial detention showed a slight but steady increase in the number of pre-trial detainees and the occupancy rate in recent years. Further, it also appeared that the use of alternative methods of modulating access to pre-trial detention (such as house arrest) was decreasing. The number of pre-trial detainees increased from 1 532 at the end of 2015 to 2 193 on 31 December 2022, representing an increase in the rate of pre-trial detainees from 15 to 19% of the total of the prison population.

The Director of Belgrade District Prison (which accommodates more than 60% of the country's pre-trial detainees) told the delegation that the increase in the pre-trial detention rate and occupancy was due to several factors, such as the criminal profile of the remand prisoners and their recidivism rate, the lack of confidence of the judicial authorities in alternative sanctions and their tendency to approve the prosecution's requests for custodial measures. Not surprisingly, the remand prisons visited by the delegation during the 2023 visit were severely overcrowded. This could be a serious problem, given that pre-trial detention in Serbia can be extended indefinitely⁴³ and is not always seen as an *ultima ratio*, as evidenced by the amount of financial compensation paid by the Serbian authorities to persons who filed complaints of unlawful detention.⁴⁴

The findings of the delegation with regard to the cumulative effect of the serious overcrowding, poor material conditions and impoverished regime found in most of the pre-trial detention facilities visited during the ad hoc visit in 2023 could be considered to amount to inhuman and degrading treatment (see paragraphs 55-61). In the CPT's view, the use of pre-trial detention should be imposed for the shortest possible period of time and should be based on a case-by-case assessment of the risk of committing a new offence, absconding, tampering with evidence or witnesses or otherwise interfering with the course of justice. Moreover, the nature and gravity of the offence the person is suspected of having committed should be duly taken into account when assessing the proportionality of the measure. Such a reflection should include strategies in order to strengthen the resort to alternative measures to custody (such as bail, house arrest with electronic monitoring and various restraining orders).

The CPT recommends that the Serbian authorities, including the relevant prosecutorial authorities, seriously reflect on the use of pre-trial detention and its role as a measure of last resort.

43. On the basis of a decision by the investigating judge, an accused person may be held in custody for a maximum of three months from the date of detention. The judge is required to review *ex officio* every 30 days whether the reasons for the detention order still exist. A panel of the competent High Court may, at the request of the prosecutor, extend the detention for a further maximum period of three months (appeal does not delay the execution). If the indictment has not been filed by the end of the extension period, the accused is released (Article 215 of the CCP). The court panel must review the grounds for detention *ex officio* every 60 days from the filing of the indictment until the first instance judgement (Article 216 of the CCP).

44. According to the Serbian Ministry of Justice a total of 6 007 claims for compensation for unlawful deprivation of liberty were submitted to the Damages Commission of the Ministry of Justice during the period from 2015 to 2022, the Commission examined 2 212 of them and reached settlements with 750 of the claimants. The available data show that the Compensation Commission has paid a total of a total of RSD 220 529 715.12 (approx. € 1 884 869.36) in damages in the period from 2015 to 2022.

Further, the CPT recommends that vigorous action be taken to bring the prison population below the number of places available within the prison estate and to put an end to overcrowding. In this respect, emphasis should be placed on the full range of non-custodial measures capable of providing judicial supervision during the period preceding the imposition of a sentence.⁴⁵

51. The establishments visited in the course of the 2023 visit were as follows:

- Belgrade District Prison: the biggest pre-trial detention facility in the country located in the Vračar neighbourhood was accommodating 957 remand detainees (including 50 women and five juveniles)⁴⁶ at the time of the visit for a capacity of 1 054 places. All 12 pre-trial blocks had been renovated since 2012 with the exception of Block 2.1 which should start in July 2023. The separate Special Pre-trial Detention Unit was also overcrowded and several remand detainees relocated to the main building.⁴⁷ The establishment was also accommodating 101 sentenced prisoners.
- Novi Sad District Prison: the second largest pre-trial detention facility in the country, located on the northern outskirts of the city in the Klisa neighbourhood, was accommodating 216 pre-trial detainees (including eight juveniles and 13 women) in its dedicated building with a capacity of 269 places (43 cells). A new pre-trial detention facility with a capacity of 300 places was to be built,⁴⁸ but work was delayed by disputes over ownership of the land. The facility was also accommodating 211 sentenced prisoners under closed and semi-open regimes and 63 misdemeanour offenders in a separate building.
- Subotica District Prison: located in the centre of the city in a building dating back to 1880, at the time of the visit it was accommodating 59 remand prisoners (including three women)⁴⁹ with a total capacity of 80 places. The building was suffering from architectural and structural constraints due to its location and age (there was no perimeter fence and it was attached to other facilities, including municipalities and private companies, which left the courtyards unsecured) and a new facility with a capacity of 300 pre-trial detainees was to be built with co-financing from the CEB for a loan of € 25 million. At the time of the visit, the facility was also accommodating 85 sentenced prisoners and 23 misdemeanour offenders.⁵⁰
- Sremska Mitrovica Correctional Institution (KPZ) pre-trial detention unit: a self-standing two-storey building located inside the perimeter of the biggest prison establishment in the country. At the time of the visit the pre-trial facility was accommodating 163 remand detainees (including five women)⁵¹ and five persons on police custody in the two dedicated cells (see paragraph 47) for an overall capacity of 211 places.

2. Ill-treatment

52. The large majority of remand prisoners interviewed by the delegation spoke positively of the way in which they had been treated by custodial staff and were complimentary as regard their professionalism, in particular at Belgrade District Prison. The director of the establishment had informed the delegation at the outset of the visit that the management had uncovered an episode of physical ill-treatment. An examination of CCTV recording revealed that a custodial officer had hit a remand prisoner with a rubber truncheon across his face while escorting him back from the visiting

45. See the Council of Europe Committee of Ministers White Paper on Prison Overcrowding – CM(2016)121-add3, 23 August 2016 and in particular paragraph 20 which states that if a given prison establishment operates at more than 90% of its capacity this is a sign of immediate prison overcrowding.

46. Three boys and two girls.

47. 24 out of the 124 remand prisoners assigned to the Special Pre-trial Detention Unit had been relocated to the main building of Belgrade District Prison.

48. The project was to be financed entirely by the Serbian authorities.

49. 14 out of 59 remand prisoners were foreign nationals predominantly originating from Afghanistan, Iran and Pakistan.

50. Sentenced prisoners and misdemeanour offenders were accommodated on the ground floor of the building with the exception of four sentenced prisoners, who were serving their sentence in a separate semi-open regime building.

51. One of them was a minor.

facility on 7 March 2023 following a verbal altercation.⁵² The prison officer in question had been promptly suspended from service and the case had been forwarded to the relevant prosecutor.⁵³

At Novi Sad District Prison and Sremska Mitrovica KPZ the delegation received few allegations of physical ill-treatment and excessive use of force. At Sremska Mitrovica KPZ a few remand prisoners alleged to have received punches, kicks and slaps in the office for searches without CCTV cameras following episodes of inter-prisoner violence and recalcitrant behaviour. A few female remand prisoners at Novi Sad District Prison alleged to have been subject to hair pulling and slaps from a female prison officer following episodes of inter-prisoner violence and recalcitrant behaviour.

At Subotica District Prison, the delegation received a few complaints from foreign national prisoners about racist and derogatory comments by some specific custodial staff as well as being compelled to shave their beards in compliance with the provisions of the Rulebook on the enforcement of remand detention.⁵⁴

53. The CPT reiterates its recommendation that the Serbian authorities deliver to custodial staff the clear message that physical ill-treatment, and disproportionate resort to means of restraint and security measures are not acceptable and will be dealt with accordingly.

The CPT recommends in particular that appropriate measures be taken to upgrade the skills of prison staff in handling high-risk situations without using unnecessary force, notably by providing training in ways of averting crises and defusing tension, and in the use of safe methods of control and restraint. Such training should also include elements of anti-discrimination and intolerance against detained persons of foreign nationality.

54. Levels of inter-prisoner violence were remarkably moderate in light of the serious levels of overcrowding and impoverished regime on offer (see paragraphs 55-61). The delegation received a few allegations of physical altercations and intimidation among remand male and female prisoners at all prison establishments visited and was able to ascertain that episodes were adequately recorded, staff intervened promptly in separating the relevant prisoners, injuries were adequately recorded and the perpetrators subject to disciplinary proceedings.

3. Conditions of detention

a. material conditions

55. The CPC and Rulebook on Enforcement on pre-trial detention regulate the minimum standards of detention for pre-trial detainees, which should consist of minimum living space, equipment, satisfactory hygiene conditions, access to hygiene products and accessories for indigent prisoners as well as increased entitlements for female, juvenile prisoners and persons with disabilities.

56. On the impulse of its energetic director, since 2012, all remand detention blocks in Belgrade District Prison have been renovated, with the exception of Block 2.1, whose cells were of old design and did not have direct access to natural light. The renovation of Block 2.1 was scheduled to start in July 2023.⁵⁵ The recently renovated blocks (for example, Blocks 1.1, 1.2 and 5.2) provided good conditions of detention and fully complied with national legislation in terms of requirements: cells

52. On the same day, the remand prisoner was examined by the prison doctor, who made the following entry in his medical file "The patient claims to have stumbled and hit his head against the wall: he has a reddish haematoma of 5 cm in size on the right side of his forehead".

53. The prison officer was temporarily suspended on 8 March 2023 for the duration of his disciplinary proceedings and the case forwarded to the Belgrade II Basic Prosecutor on the same day.

54. Article 22, paragraph 6 of the Rulebook on the enforcement of remand detention stipulates as follows: "wearing a beard and moustache, i.e. longer hair, may be temporarily restricted for safety or hygiene reasons, while those reasons exist".

55. The renovation work entailed the transfer of 76 remand prisoners to other blocks for a period of at least one year.

were spacious,⁵⁶ properly equipped, well ventilated, had access to natural light and had fully separate, spacious in-cell sanitary facilities and a laundry in each block. Other blocks, such as 5.1 and 5.2 which had been renovated in 2015, showed some deficiencies, such as wear and tear on walls, occasional bed bug infestation and old mattresses and damaged washbasins in the sanitary facilities.⁵⁷

Conditions in Block 2.0, where newly arrived remand prisoners can spend up to 30 days and prisoners under special protection are generally accommodated, were not good due to the high turnover: cells were in poor condition of hygiene (hygiene products were not provided and had to be purchased at the canteen) and dilapidated (for example, crumbling walls, old beds and mattresses and damaged sanitary facilities).

The situation observed at the remand detention units of the three other prison establishments visited was notably poor:

- In Novi Sad District Prison, the 43 cells were extremely overcrowded (two prisoners were accommodated in cells measuring 3.8 m², six prisoners in cells measuring 12.6 m² and eight in cells measuring 16 m²), in a poor state of repair (old mattresses, rusty beds, crumbling and damp walls), with poor ventilation, insufficient access to natural light and high levels of humidity. The situation was partially alleviated in some cells where prisoners were allowed to install dehumidifiers. Cells were poorly equipped, with no lockers and insufficient seating, forcing prisoners to take turns eating their meals. Separate sanitary facilities consisted of a washbasin and a toilet, and the communal showers were insufficient in number, dilapidated, mouldy and lacking in privacy (12 showers in use for 216 remand prisoners).⁵⁸ Several cells were infested with bedbugs, despite regular disinfection efforts by the administration. In addition, the provision of toiletries and cleaning products was inadequate and prisoners had to purchase such items from the local canteen.

- At Subotica District Prison, the 22 cells accommodating pre-trial detainees showed signs of neglect. They measured in general 7.8 m² for double occupancy (with a width of less than 2 metres) and 27 m² for 7 prisoners and were equipped with bunk beds, tables and chairs and metal lockers. The walls were crumbling and the separate sanitary facilities had only floor-level toilets and no washbasins (only a tap) and were dilapidated, with cracks in the walls showing the pipes, and broken doors. The communal shower facility on the ground floor consisted of nine taps with no shower batteries, connected by a grid of suspended water pipes, and was accessed by groups of 15-20 prisoners at a time for less than five minutes twice a week, often leaving prisoners unrinsed. Indigent and foreign prisoners had to rely on other prisoners for bed linen and toiletries.

- At the Sremska Mitrovica KPZ Remand Detention Unit, the 36 cells of the facility, which was only built in 2006, were moderately cramped,⁵⁹ had adequate access to natural light and were properly ventilated. However, the cells were in an extremely poor state of repair (old and torn mattresses, broken tiles and sanitary facilities such as showers and toilets) and in appalling hygiene conditions (leftover rubbish on the floor, bedbugs, dirty plates and cutlery). The prison administration did not provide bedding and a high proportion of detainees slept on mattresses without sheets. Cleaning and personal hygiene products were not provided and had to be purchased from the local canteen. By letter received on 13 June 2023, the Serbian authorities informed the Committee that the management of Sremska Mitrovica KPZ had taken measures to improve the level of hygiene in the pre-trial detention unit.

56. In principle, cells measuring 20 m² were accommodating four prisoners, while up to eight prisoners were accommodated in the bigger cells measuring approximately 44 m².

57. The washbasins were suspended and fell off easily, requiring them to be attached with ropes or other materials.

58. Buckets of hot water were made available to prisoners in their cells on a daily basis.

59. Cells were of a standard size measuring 16 m² excluding the separate sanitary annex and accommodated up to five remand prisoners each.

57. The Committee notes favourably the efforts made by the Ministry of Justice to renovate and expand the prison estate, in particular the extensive refurbishment of Belgrade District Prison since 2012 and the planned construction of new facilities in Novi Sad and Subotica. At the same time, it considers that the current increasing trend of the remand prison population and the poor material conditions and neglect in terms of maintenance, level of hygiene, poor access to sanitary facilities and inadequate equipment may well amount to inhuman and degrading treatment and also contravene the relevant national legislation.

In light of the above, the CPT calls upon the Serbian authorities and the Service for the Enforcement of Criminal Sanctions to adopt a rolling programme for the renovation, maintenance, disinfection and equipment of existing pre-trial detention facilities throughout the country, with clear timetables, earmarked budget lines and oversight. In the meantime, the following short-term interim measures should be taken in the prisons visited.

- **At Belgrade District Prison, the renovation of Blocks 2.1 and 2.0 should be completed as soon as possible and the shortcomings in the remaining blocks should be remedied, in particular as regards the replacement of old and worn-out mattresses, inadequate lighting and broken wash basins, as well as the disinfestation of the pest-infested blocks.**
- **At Novi Sad District Prison, pending the construction of the new facility, all cells should be renovated and regularly disinfected, dehumidifiers should be installed, worn mattresses should be replaced and more stools should be provided. In addition, access to communal showers should be increased and these should be renovated and cleared of mould.**
- **At Subotica County Prison, pending the construction of the new prison facility, the cells of the remand unit should be whitewashed and the walls repaired, the in-cell sanitary facilities should be provided with washbasins and the doors of the sanitary annexes should be repaired. The communal sanitary facilities should also be renovated and equipped with shower heads and partitions to increase privacy and accessibility.**
- **In Sremska Mitrovica KPZ, worn-out mattresses should be replaced, sanitary facilities should be repaired in terms of shower floors and toilets, and the level of hygiene in cells should be significantly improved through more diligent waste collection, disinfection and the provision of cleaning products. In addition, all pre-trial detainees (especially the most destitute) should be provided with bedding on a regular basis.**

58. The quality of food was considered by detainees to be satisfactory in the prisons visited, although detainees complained about the poor supply of fresh fruit and vegetables and the modalities of food distribution in Sremska Mitrovica KPZ (that is, detainees received food in their own plastic plates or bowls, which remained in the cells after consuming their meals). The delegation also noted that there were no specific additional entitlements for juveniles and that the demands of foreign nationals of Islamic religion to receive more consistent food at dinner during Ramadan were not met at Subotica District Prison.

The CPT recommends that at Sremska Mitrovica KPZ more fresh fruit and vegetables be provided to remand prisoners and the food distribution arrangements be reviewed in order to respect hygiene norms. Further, juveniles in remand detention should be provided with adequately nutritious, sufficiently calorific and well-balanced diet, as well as access to plenty of fluids for their needs. Further, the dietary needs and customs of foreign prisoners and notably those of Islamic origin should be respected.

b. regime

59. The CPT has long advocated the development of a purposeful regime of out-of-cell activities for remand prisoners in Serbia, consisting of at least eight hours of out-of-cell entitlement and participation in vocational, recreational or work activities.⁶⁰ In the course of the 2021 periodic visit, the Committee welcomed the first tentative efforts to provide some remunerated activities at Pančevo KPZ and recommended that this practice be extended as far as possible to other penitentiary institutions.⁶¹

Regrettably, the situation observed during the ad hoc visit in 2023 did not allow for an optimistic conclusion. In fact, with the exception of a handful of prisoners⁶² involved in general tasks such as food distribution and cleaning in each prison, the only out-of-cell activity for the rest of the pre-trial population consisted of access to the courtyard for periods ranging from 30 minutes to two hours per day. The limited entitlement, sometimes not even on a daily basis, to outdoor facilities was mainly related to the disproportion between the number of remand prisoners and the understaffing of prison officers. In practice, remand prisoners spent their days in cells playing board games and watching television, if the prisoners could afford to buy one.

The courtyards of the establishments visited were all deficient and generally lacked exercise facilities, adequate benches and, in some cases, shelter from inclement weather (such as Sremska Mitrovica KPZ and Novi Sad District Prison). At Belgrade County Prison, the three existing courtyards had been partitioned into six in order to provide access to the large population for the statutory two hours per day. Access to the courtyard of Subotica District Prison (consisting of two courtyards partitioned with a metal grill) was irregular and very limited due to severe understaffing (see paragraph 68).⁶³ In addition, the yard was surrounded by private buildings and offices. By letter received on 13 June 2023, the Serbian authorities informed the Committee that a new work shift for prison staff had been introduced in order to allow detainees regular access to outdoor exercise.

The CPT calls upon the Serbian authorities to take concrete measures to develop a daily programme of activities for all remand prisoners building on the efforts initiated at Pančevo KPZ. The aim should be to provide prisoners with at least eight hours of out-of-cell activities (work, vocational courses, education, recreation and sports).

60. Juveniles on remand detention at the establishments visited were all accommodated in dedicated cells. However, the regime offered to them did not differ from that provided to the adult population and no specific activities were proposed to them. In addition, educational activities for those attending school were interrupted and they also had difficulties borrowing books from the existing libraries. Although a lack of purposeful activity is detrimental for any prisoner, it is especially harmful for juveniles who have a particular need for physical activity and intellectual stimulation. **The CPT reiterates its recommendation that the Serbian authorities take steps to provide all juvenile offenders accommodated in remand detention regardless of their period of detention, with a full programme of purposeful activities (including education, sport, and recreation).**

61. At Belgrade District Prison the 50 women on remand detention had access to a communal facility with a kitchenette for preparing hot drinks, which was the only variation in their regime. In the other establishments, women in pre-trial detention were not offered any additional activities and even suffered from the restrictions of segregation, which consisted of more limited access to outdoor exercise, a stricter dress code and they were not granted any additional facilities for personal hygiene, such as extended access to showers.

60. See in this respect paragraph 64 of the CPT report on its 2021 visit to Serbia CPT/Inf (2022) 03, paragraph 50 of the CPT report on its 2017 ad hoc visit CPT/Inf (2018) 21 and paragraph 65 of the report on the 2015 periodic visit CPT/Inf (2016) 21.

61. See paragraph 64 of the CPT report on its 2021 periodic visit to Serbia.

62. There were, for example, eight at Belgrade District Prison.

63. There was no outdoor exercise on Thursdays, the day dedicated to visits, due to the need for staff to supervise them, as well as on some public holidays, due to the more impoverished shifts of staff complements.

The CPT reiterates its recommendation that the Serbian authorities develop a gender-specific approach towards women prisoners in remand detention offering them more meaningful human contact and psychological assistance in order to compensate for the prolonged periods of *de facto* solitary confinement to which they might be occasionally exposed. The CPT calls upon the Serbian authorities to take concrete measures to develop a programme of activities for female prisoners accommodated at remand detention facilities nationwide. The aim should be to provide prisoners with at least eight hours of out-of-cell activities (work, vocational courses, education, recreation and sports).

4. Healthcare services

62. In the Belgrade, Novi Sad and Sremska Mitrovica KPZs, the number of healthcare staff attending to the needs of pre-trial detainees was adequate.⁶⁴ In addition, the Prison Administration funded six medical specialisation programmes for young doctors as an incentive to join the prison service. However, there were shortcomings in Subotica County Prison, where a full-time doctor and two nurses, despite their motivation and professionalism, could not meet the needs of the population. The delegation had been informed that three competitions for the recruitment of a GP had not managed to attract any interest candidate.

Furthermore, all establishments had established and well-functioning agreements with external healthcare facilities, such as the Military Medical Academy and the Special Prison Hospital in Belgrade, for imaging and other diagnostic procedures, and were regularly visited by various specialists.⁶⁵ The competent judicial authorities authorised, in principle, the referral of pre-trial detainees to external facilities for treatment or diagnostic activities. **The CPT recommends that the healthcare staffing complement at Subotica District Prison be increased with the recruitment of one additional full-time GP and two full-time nurses. In this respect the Serbian Ministry of Justice should consider the possibility of funding specialisation programmes for young doctors as an incentive to join the prison service as already done in Belgrade.**

Access to a doctor did not constitute a problem at any of the establishments visited. Requests by remand and sentenced prisoners were lodged through a written request (*podnesak*) either to nurses or security staff and managed electronically in a spreadsheet. That said, at Belgrade District Prison female remand prisoners complained about consistent delays in obtaining a consultation with the prison doctor. **The CPT recommends that the health service of Belgrade District Prison respond in a timely manner to requests for medical consultations from female remand prisoners.**

63. The infirmaries of Belgrade, Novi Sad District Prisons and the remand detention unit of Sremska Mitrovica KPZ were adequately equipped with basic-life saving equipment (defibrillators) and adjunct equipment to emergency care (electrocardiogram, cardiology ultrasound and an intervention-ready emergency bag). Furthermore, each unit contained dental chairs, were spacious and in a reasonable state of hygiene.

At Subotica District Prison, the infirmary consisted of a tiny examination room, there was a lack of a defibrillator and the dental suite was antiquated. **The CPT recommends that the Subotica County Prison be equipped with a defibrillator and that a person competent to provide first aid (who holds a valid certification in training in the application of cardiopulmonary resuscitation and the use of an automated external defibrillator) is always present at the prison establishment. Further, a new dentist's chair should be purchased.**

64. At Belgrade District Prison there were five full-time GPs (one was about to be recruited), 12 nurses, one dentist and two mental nurses. At Novi Sad District Prison the healthcare staff component consisted of three full-time GPs, four nurses, three medical technicians, one dentist and one mental nurse. The remand detention unit of Sremska Mitrovica KPZ, also serving the reception unit of the prison, was staffed with three full-time GPs, 28 medical technicians, one dentist and one dental nurse.

65. For example, at Belgrade District Prison contracts existed with a psychiatrist visiting three times a week, a child-psychiatrist and a physiotherapist. Further, provisions were in place for specialist arrangements with the Medical Military Academy (namely, surgeon, dermatologist, ophthalmologist, urologist, internist, ear, nose and throat specialist, podiatrist, neurologist and orthopaedic surgeon).

64. As mentioned in paragraph 17 the screening of injuries upon admission was in principle prompt and adequate. Further, the medical examination of newly admitted prisoners consisted of a physical check and anamnesis which included a questionnaire for the screening of infectious and transmissible diseases such as Tuberculosis and Hepatitis C and a risk assessment for the prevention of suicide and self-harming. That said, routine testing for these possible underlying conditions was not being proactively sought due to financial shortages at the State level. Further, there was no screening for gender violence in respect of women at any of the visited establishments.

The CPT recommends that systematic screening for tuberculosis, voluntary counselling and testing on the blood borne infections HIV and hepatitis B/C should be offered at all prison establishments visited.

Further, the CPT also recommends that the Serbian authorities develop the admission procedures at all prisons accommodating female inmates to take into account the gender-specific needs of women prisoners. This should include screening for sexual abuse or other forms of gender-based violence inflicted prior to entry to prison and ensuring that such information is considered in the drawing up of a care plan for the woman in question.

65. In principle the level and quality of psychiatric assistance was adequate at the establishments visited, due to the presence of two psychiatrists in Belgrade and Novi Sad District Prisons and weekly visiting arrangements at Sremska Mitrovica KPZ and Subotica District Prison. Further, in case of acute crisis, patients were getting prompt access to the services of the Special Prison Hospital.

66. At the establishments visited, prisoners with drug or alcohol withdrawal needs were promptly referred to the Special Prison Hospital and continuation of opioid agonist treatment (OAT) was ensured in respect of those who were registered under a methadone or buprenorphine substitution treatment at the respective community healthcare centre prior to their incarceration. The initiation of OAT during incarceration was considered to be extremely rare, but a procedure did exist for such a scenario, notably at Belgrade District Prison.⁶⁶ At Novi Sad District Prison, several prisoners were complimentary of the individualised approach of doctors on their process of substitution and detoxification.

67. The distribution of medication was exclusively managed by nurses or medical technicians with the exception of Subotica District Prison where, due to the absence of healthcare during weekends, it had to be performed by staff in pre-prepared dosages.

The pharmacies in the establishments visited were stocked with an appropriate range of medication. The vast majority of medication required for the treatment of sentenced prisoners was funded by the prison administration and families stepped in to fill the gap in the case of medications which were not on the list approved by the Serbian healthcare insurance fund.

66. The procedure consisted of a request sent to the adjacent Special Prison Hospital for examination of the detained person and an assessment of their needs for OAT.

5. Other issues

a. prison staff

68. The suspension of recruitment in the public sphere in place since 2015 has led to shortages in staff complements at several prison establishments with serious consequences for their security and management. For example, at Novi Sad District Prison 96 custodial staff members⁶⁷ were in charge of the supervision of a total of 490 prisoners and were working five staff per shift in the remand detention unit. However, the situation was more dire at Belgrade and Subotica District Prisons, where the serious understaffing was causing severe problems to the management of the establishments. In particular:

- At Belgrade District Prison, 242 custodial staff members (out of 255 budgeted posts) were in charge of the supervision of 1 058 prisoners working in shifts of 12 hours of 15 to 20 officers. The levels of overtime work had increased dramatically and were contributing to staff deciding to quit.⁶⁸ The management was considering introducing shift changes in order to counterbalance this trend.
- At Subotica District Prison, where 33 custodial officers (out of 45 budgeted posts) were in charge of a total of 169 prisoners (working in principle at five per shift), the severe understaffing levels were having serious implications on regime restrictions (such as irregular and shortened access to outdoor exercise) and escorting activities (such as medical examinations being delayed or cancelled). Further, the fact that only one female officer was in service caused obvious restrictions for the activities of female prisoners and was leading to drastic limitations (for example no search on female prisoners was conducted in the absence of the female member of the prison staff).

The CPT recommends that the Serbian Ministry of Justice give serious consideration to the need to increase staffing levels and put an end to the recruitment ban. The CPT recommends that the same Ministry take action to fill prison officer positions in the prison establishments under its jurisdiction, ensuring that the number of prison officers employed is sufficient to guarantee staff safety, legal requirements such as the supervision of daily outdoor exercise and escorting to outside medical facilities, and the physical and mental integrity of all prison officers as well as to reduce overtime and prevent overstaffing. Furthermore, the staffing level of female prison officers at Subotica County Prison should be urgently increased.

b. contact with the outside world

69. The legislation provides that remand prisoners are entitled to three one-hour visits per month by up to three relatives, at the discretion of the judicial authorities, who may also decide on open or closed conditions (generally, visits for remand prisoners take place in a closed environment behind a glass screen until the indictment is raised). The delegation was able to verify that, in principle, remand prisoners have their visiting arrangements confirmed relatively quickly upon admission.

Visiting arrangements were satisfactory in Belgrade and Novi Sad prisons which, following recent renovations, provided a friendly environment for families, but were cramped in Subotica and Sremska Mitrovica KPZs.⁶⁹

The CPT accepts that in certain cases it will be justified, for security-related reasons or to protect the legitimate interests of an investigation, to have visits take place in booths and/or be monitored. However, “open” visiting arrangements should be the rule and “closed” ones the exception, for all legal categories of prisoners. Any decision to impose closed visits must always be well-founded and reasoned and based on an individual assessment of the potential risk posed by the prisoner.

67. Out of 111 budgeted positions.

68. There had been 8 402 hours of overtime work in October 2022, 5 266 in November 2022 and 6 842 in December 2022.

69. Visits took place in an adjoining booth with a glass screen that allowed only one visitor to sit while the others stood behind.

The CPT recommends that the Serbian authorities, in consultation with the competent judicial and prosecutorial authorities, apply the above-mentioned principle of imposing closed visiting arrangements only in exceptional circumstances and on the basis of an individual risk assessment, rather than adopting a systematic ban linked to the progress of investigations and criminal proceedings (until the raising of the indictment). Further, the Committee also recommends that the visit entitlement for remand prisoners be extended to the equivalent of one visit per week.

70. There is still no official legal entitlement to telephone calls, which remain at the sole discretion of the investigating judge. In principle, the practice of granting telephone calls depends on the respective investigating judge, at least up to the stage of indictment. The CPT has consistently stated that any decision to prohibit or restrict a particular detainee's access to a telephone should be based on a substantiated risk of collusion, intimidation or other unlawful activity and for a specified period of time. Where there is a risk of collusion, specific telephone calls may always be monitored. However, the general principle should be to allow regular and frequent access to the telephone.

The CPT calls upon the Serbian authorities to take the necessary steps, including of a legislative nature, to ensure that remand prisoners are granted regular and frequent access to the telephone.

71. Foreign nationals in remand detention were particularly disadvantaged as regards ensuring their contact with the outside world. The delegation was able to observe that the consular authorities were not always promptly informed of the detention of their nationals upon admission, despite the request of the detained persons. Furthermore, it was not possible for remand prisoners to make telephone calls to foreign countries at their own expenses due to technical restrictions.

The CPT considers that all persons entering prison should be offered the opportunity of one phone call (free of charge) upon admission, to let their families know where they are and what they require. This is all the more important given that many persons deprived of their liberty by police do not contact their families prior to being transferred to prison.

The CPT recommends that the Serbian authorities offer all newly arrived persons in prison the possibility to make one short phone call to a family member as part of the admission procedure. Further, consideration should be given to introducing the use of VoIP communication for foreign national prisoners to maintain contact with their families abroad.

c. discipline

72. The responsibility for imposing disciplinary sanctions for possible violations of the house rules of remand prisoners lies with the competent judicial authorities, following notification and transmission of the proposal by the prison administration.⁷⁰ The delegation found that in the establishments visited there was no disproportionate recourse to disciplinary measures in respect of remand prisoners and that, as a rule, the judicial authorities responded promptly to the proposals/requests of the prison management and that the procedures were accompanied by adequate safeguards (in terms of written decisions, possibility of appeal, etc.). The most common sanction imposed was the restriction of parcel entitlements. However, it was still not uncommon for remand prisoners to be banned from receiving visits as a disciplinary sanction, as provided for in the legislation.

The CPT considers that restrictions on family contact in the context of a disciplinary offence should be imposed only where the offence relates to such contact and should never amount to a total prohibition of contact. Even where the disciplinary offence relates to an abuse of visiting rights, any sanction should not result in the suspension of all visits but of "open" visits across a table for a period.

70. Pursuant to Article 221 of the CPC.

The CPT once again calls on the Serbian authorities to review the legislation concerning disciplinary sanctions consisting in the prohibition or restriction of family visits, in light of the above observations.

73. At Subotica District Prison the judicial authorities were simply not responding and providing feedback to management's requests for the imposition of a disciplinary sanction, which is a sign of legal insecurity and of the necessity of devolving responsibility to the prison authorities.

The CPT recommends that the responsibility for imposing disciplinary sanctions against remand prisoners be transferred from the judiciary to the prison authorities. In this respect, the relevant provisions of the CCP should be amended accordingly and legal security guaranteed, and the application of informal disciplinary punishment prevented.

d. means of coercion and security measures

74. During the 2023 periodic visit, the delegation examined the application of means of restraint and security and good order measures, as provided for in Articles 142-155 of the LECS. The use of security measures such as segregation, placement under close supervision and solitary confinement for security reasons, was moderate in the establishments visited and appeared to be justified and proportionate.⁷¹ Detained persons generally received written decisions on their placement and were informed of their right to appeal, and persons subject to these measures were regularly visited by healthcare staff. However, the two cells used for the enforcement of such measures in Belgrade District Prison, which were of the same design and size in Block 2.1, were measuring 8 and 10m² and were in a serious state of disrepair (for example, crumbling and dirty walls, damaged doors to the sanitary annex and flickering artificial lighting) and the prison management announced their intention to renovate them. At Subotica District Prison, where a remand prisoner was held under enhanced supervision in a special cell, they were not provided with a TV, radio or reading material, contact with staff was sporadic and outdoor entitlements were extremely limited. The detainee also alleged that he spent his first night in an empty cell (formerly used as a padded cell) with no furniture, sleeping on a mattress on the floor without sheets or blankets.

The CPT reiterates its recommendation that the Serbian authorities develop a purposeful regime for persons placed under the measure of enhanced supervision with a view to promoting their reintegration into the ordinary regime. Every unit where such a measure is enforced should have a full-time dedicated multi-disciplinary team composed of educators, psychologists and social workers. The team should develop more detailed individual treatment plans for each prisoner and should increase their direct interaction with them through motivational interviews. Further, the CPT would like to receive confirmation of the fact that the two cells in use for the measure of enhanced supervision at Belgrade District Prison have been refurbished and the former padded cell of Subotica District Prison has been taken out of service.

75. As was the case during previous visits, newly admitted remand prisoners (including juveniles) were subject to a complete strip search with flexion upon their admission. Further, the delegation also received several allegations of juveniles being handcuffed during transfers to courts and outside facilities, and adult prisoners being handcuffed and, in some cases, ankle cuffed during transfers to hospital facilities.

The CPT reiterates its recommendation that the Serbian authorities ensure that the resort to strip searches of newly arrived remand prisoners is based on an individual risk assessment, subject to rigorous criteria and supervision, and carried out in a manner respectful of human dignity. Further, every reasonable effort should be made to minimise embarrassment; detained persons who are searched should not be required to remove all their clothes at the same time. That is, a person should be allowed to remove clothing above the waist and get dressed again before removing further clothing. Further, body searches of juveniles should

71. For example, at Belgrade District Prison there had been five measures of enforced supervision imposed on remand prisoners from January 2022 to March 2023.

only be carried out as a last resort, i.e. only when the safety risk to self or others is considered to be particularly high and when less intrusive measures cannot be applied.

The CPT recommends that the Serbian authorities ensure that when juvenile prisoners are transported and escorted outside of the perimeter the use of handcuffs is exceptional and based upon an individual risk assessment.

e. complaints procedures

76. As was the case during previous visits, remand prisoners were being instructed on the main tenets of the Rulebook on the enforcement of remand detention at the time of their admission and during the quarantine period. Brochures were available in different languages and detained persons were aware of their avenues of complaint and were exercising them (to the prison management, judicial authorities, etc.).

f. inspection procedures

77. The judicial authorities generally fulfilled their legal obligations and regularly visited the prison establishments (including detention facilities) every 15 days⁷² and made written comments in the relevant registers. However, in Subotica District Prison, the competent judicial authorities had not resumed visits to the prison establishment since the pandemic, nor had they held online meetings with prisoners. **The CPT recommends that the supervisory judges from the Subotica Basic Court resume their visits to the Subotica District Prison in person in order to better assess the conditions of detention of the prisoners under their legal remit.**

78. The NPM regularly visited prison establishments and also followed up on the implementation of previous CPT recommendations. In particular, the NPM had visited Novi Sad District Prison in 2021, where they had been critical of the material conditions, and had also made critical remarks in relation to the cells used for police custody at Sremska Mitrovica KPZ.

6. Kruševac Educational-Correctional Institution

a. preliminary remarks

79. The system of enforcement of criminal sanctions in respect of juvenile offenders in Serbia, as regulated by the 2011 Law on Juvenile Offenders in Criminal Matters (LJOCM), provides for two main types of custodial measures: a) placement in an educational correctional institution for periods ranging from six months to four years for juveniles aged from 14 to 23 years⁷³ and b) juvenile imprisonment for older juveniles (from 16 to 18 years) who have committed an offence punishable by more than five years' imprisonment.⁷⁴ The delegation was informed that a new draft law on juvenile offenders in criminal matters was being prepared by a dedicated working group of the Ministry of Justice.

During the 2023 visit, the delegation paid a targeted visit to the Kruševac Educational and Correctional Institution (VPD) in order to examine the treatment of juvenile offenders under an educational measure, in particular those placed in the separate intensive care unit serving various measures of segregation and disciplinary isolation.

80. Kruševac VPD is the largest educational correctional institution for juvenile offenders in Serbia and in the region of the former Yugoslavia, having opened in 1947. Located in the southern part of Kruševac near the slopes of Jastrebac mountain, the establishment consists of two main three-storey newly constructed blocks for the accommodation of juveniles in semi-open regime

72. Pursuant to Article 222, paragraph 2 of the CPC.

73. Pursuant to Article 21, paragraph 3 of the LJOCM. Further, the renewal of the custodial educational measure is reviewed every six months by the competent juvenile judge.

74. The measure of juvenile imprisonment was enforced at the Valjevo Correctional Centre, which was visited by the CPT in the course of its 2015 periodic visit (see paragraphs 126-150 of the CPT report CPT/Inf (2016) 21).

(aged between 14 and 18 years), women and young adults (aged between 18 and 23 years), which entered into service in 2014. The facility also includes a stand-alone intensive care unit located some 600 metres above the main accommodation blocks, which consists of a two-storey building surrounded by high walls and barbed wire, with its own outdoor area.⁷⁵

At the time of the visit, the Kruševac VPD was accommodating 177 juvenile offenders (including 14 females).⁷⁵ The visit focussed on the stand-alone intensive care unit which was accommodating 31 male juvenile offenders (with a capacity of 40 places), who had been placed there to serve a disciplinary measure or a security measure of enforced supervision or in view of their incompatibility with the ordinary regime (see paragraph 86).

b. ill-treatment

81. Juvenile offenders from the intensive care unit spoke positively about the attitude and treatment of the staff of the institution under normal circumstances (that is, when the house rules were respected). However, the delegation received numerous allegations of ill-treatment, consisting of slaps and blows with rubber truncheons on the thighs and buttocks inflicted by custodial staff as a form of corporal punishment in relation to incidents of inter-detainee violence, attempted escape⁷⁶ or recalcitrant behaviour. The ill-treatment took place in the therapy room in the intensive care unit or in a room of the admission block (not covered by CCTV) or in the ordinary blocks. The episodes of ill-treatment were usually well documented in the reports on the use of means of restraint drawn up by management in accordance with the relevant legal framework, with complete documentation and statements on the proportionality of the use of means of restraint.

82. The following examples show a clear pattern of the violence inflicted by staff on the children:

- A female juvenile who had a physical altercation with another resident on 16 January 2023, after which she alleged that a female custodial officer hit her several times on her legs and back with a truncheon while another male custodial officer held her by the arm. She claimed that she was beaten until the rubber truncheon allegedly broke. When she was examined by a doctor on the same day, her medical report included the following entry "*Several haematomas in the area of the buttocks and the upper part of both legs, consistent with the use of a rubber truncheon*". The report on the use of the means of restraint stated that the use of the truncheon was related to the fact that the juvenile offender had tried to overturn and damage a cupboard in the commander's office and was justified by the need to prevent the destruction of property.
- A male juvenile offender alleged that on 18 September 2022, after he had physically attacked another juvenile in the communal room of the intensive care unit, the custodial officer intervened and separated them by using force and a rubber truncheon. He alleged that he was then escorted to a therapy room where he received several blows with a truncheon on his buttocks and thighs as punishment. When he was examined by a doctor on the same day and on 19 September 2022, the following entry was made in his medical file: "*Several haematomas are visible in the area of the buttocks and the upper parts of both legs, consistent with the use of a rubber truncheon*". The report on the use of restraints explained the use of physical force and the rubber truncheon in light of the fact that the juvenile offender in question was trying to prevent the transfer of other juveniles to the cells on the ground floor in order to serve an enhanced supervision measure.
- On 18 March 2023, an incident of inter-detainee violence occurred in which three juvenile offenders physically attacked another detainee in a room of the intensive care unit, causing three custodial officers to intervene, using physical force and rubber truncheons on their buttocks and thighs in order to separate them and protect the alleged victim. Two of the assailants interviewed separately by the delegation claimed to have received several blows

75. The establishment also has a registration office, administration building, admission and discharge departments, a storage area, several maintenance workshops, a cultural centre, a school, infirmary, industrial plant, transformer station and a separate farm.

76. With the exception of the intensive care unit, which possessed a four-metre concrete perimeter wall topped with barbed wire, the rest of the facilities were surrounded by a two-metre-high metal fence.

with rubber truncheons on their buttocks and thighs by custodial officers. The medical certificate issued by the doctor of the VPD, dated 18 March 2023, contained the following entry in respect of both of them “*Several haematomas on the buttocks and thighs as a result of the use of a rubber truncheon*”. The report on the use of restraints issued by the VPD management justified the use of restraints in terms of the need to prevent additional harm during the episode of inter-detainee violence.

In addition, the delegation received allegations of physical ill-treatment and excessive use of force by staff in respect of juveniles which had not been recorded in the register of use of means of restraint.

83. The delegation gained the distinct impression that this was an establishment in which a very strict code of behaviour was enforced, with any breach likely to meet with physical punishment. The Committee considers that, in the interest of the prevention of ill-treatment, all forms of physical chastisement must be both formally prohibited and avoided in practice. Young persons who misbehave should be dealt with only in accordance with the prescribed disciplinary procedures.

The CPT recommends that the Serbian authorities take concerted action to institute a change in the culture in the juvenile establishment which moves away from one governed by physical punishment to one based upon a juvenile-oriented educational approach supported by dynamic security, with officers trained in verbal de-escalation techniques and proportionate physical control and restraint methods.

In addition, the CPT recommends that the Serbian authorities:

- **deliver a clear message to all custodial staff that the ill-treatment of young persons, in any form, is illegal and that the perpetrators of ill-treatment will be punished accordingly;**
- **ensure that the situations in which custodial officers may use physical force is defined precisely, and that detailed instructions concerning its use are issued as a matter of priority.**
- **ensure that staff do not carry truncheons inside detention areas. Further, the Rulebook on House Rules of Kruševac VPD should be revised to exclude the infliction of baton blows as a response to non-violent behaviour of inmates.**
- **ensure that the establishment's management demonstrate increased vigilance in their oversight responsibilities by ensuring the regular presence of managers in the intensive care unit, promoting direct contact with the young persons, and improving staff training on manual control and de-escalation techniques. Consideration should also be given to more extensive CCTV coverage, coupled with secure recordings and an adequate policy of storage of the recorded data. Any complaints or detection of ill-treatment by staff should be reported for investigation to the competent authorities (police and prosecutors).**

84. As mentioned above, episodes of inter-juvenile violence were very frequent in the intensive care unit of Kruševac VPD and were documented. It was linked to the poor regime in place, lack of activities and overall carceral atmosphere and the fact that the juvenile offenders were spending the entire day in the relevant common room.⁷⁷ Custodial staff were quick to intervene to separate young people and tended to be over-zealous in their use of restraint.

77. The injury register in use at the infirmary of the establishments recorded 36 cases of injuries recorded on juvenile offenders related to inter-detainee violence during the thirist three months of 2023, 114 in the course of 2022 and 94 during 2021.

Furthermore, a juvenile offender met by the delegation alleged that he had been raped by a fellow detainee in the shower of Pavilion A1 on 10 June 2021. The juvenile offender underwent a medical examination on 13 June 2021 at the local healthcare centre in Kruševac which could not confirm any trace of sexual abuse.⁷⁷ The medical examination was not carried out immediately and the medical records showed that he was sent to the Special Prison Hospital for further examination in relation to his mental health status.

In the CPT's view, each juvenile correctional establishment should have in place a clear anti-bullying policy. To begin with, there is a need to put in place a cell-share risk assessment process together with a psychological review in respect of any juvenile admitted to Kruševac VPD. It is also essential that custodial staff are alert to signs of trouble and are both resolved and properly trained to intervene. Further, staff must take a proactive approach towards ensuring that juvenile offenders, especially vulnerable ones, located in cells under their responsibility, are not abused or otherwise ill-treated by other juvenile offenders.

The CPT recommends that the Serbian authorities take proactive steps to prevent inter-prisoner violence within the juvenile population at Kruševac VPD in light of the above remarks. Part of the strategy to combat inter-prisoner violence and bullying will have to include investing far more resources in recruiting additional staff and developing staff professionalism and training, as well as offering juveniles a purposeful regime with a special focus on education activities and decent conditions. Further, the Committee also recommends that whenever an indication emerges about an allegation of sexual abuse among juvenile offenders a forensic medical examination be promptly carried out.

c. material conditions

85. The CPT considers that a well-designed juvenile correctional and educational centre should provide positive and personalised conditions of detention for young persons, respecting their dignity and privacy. All rooms should be appropriately furnished and provide good access to natural light and adequate ventilation. Juveniles should normally be accommodated in individual bedrooms; reasons should be provided explaining why it is in the best interests of the juvenile to share sleeping accommodation with another inmate. Juveniles should be consulted before being required to share sleeping accommodation and should be able to state with whom they would wish to be accommodated. Every effort should be made to avoid placing juveniles in large dormitories as the CPT's experience is that this puts juveniles at a significantly higher risk of violence and exploitation.

The stand-alone intensive care unit consisted of a two-storey building surrounded by a high perimeter wall with barbed wire. On the ground floor there were five cells for the enforcement of segregation measures, while on the first floor there were two symmetrical corridors where the two separate wings accommodated juvenile offenders. Each wing possessed four rooms (each equipped with three to four beds), a communal room equipped with a table and television and shared sanitary facilities. The conditions of the rooms were acceptable in terms of equipment (beds, table, chairs and wooden personal lockers) and state of repair. However, they were impersonal and lacked decoration and visual stimulation. In addition, the two common rooms, where the young offenders spent most of the day, were rather cramped and consisted of a long rectangular table with chairs, a small appliance for making hot drinks and a television. The separate sanitary facilities in each wing, consisting of toilets, washbasins and showers, which had been repaired in 2021 following observations by the NPM, were already in need of maintenance. In general, the whole building was extremely carceral, resembling a high-security prison rather than a juvenile institution, with reinforced metal doors and metal bars on the windows, and grilled gates at the entrance to the wing. By letter received on 13 June 2023, the Serbian authorities informed the Committee of the intention of the management of the Kruševac VPD to carry out a complete readaptation of the stand-alone building of the Intensive Care Unit in order to comply with international standards for the detention of juvenile offenders.

78. The medical certificate issued at the time of the examination reads as follows: "Objective. Abdomen soft, palpation painless, peristalsis audible. RT (rectal palpation) – no palpable pathological swellings within finger range, no traces of faecal masses, no perianal fissures or anal mucosal tears, sphincter in normal tone during examination."

The CPT recommends that the Serbian authorities re-design the structure and layout of the intensive care unit of Kruševac VPD in line with the precepts set out above for children's detention facilities. In particular, the Serbian authorities should render them less carceral: the metal bars across the bedroom windows and the grilled gates to the entrance of the two wings of the intensive care unit should be removed. The conditions of the two communal rooms should be upgraded and the common sanitary facilities be kept in an adequate state of repair and hygiene.

d. regime

86. The placement of juvenile offenders in the intensive care unit was decided by the multidisciplinary team following a breach of house rules in one of the ordinary regimes to which juveniles were assigned after the 30-day admission period.⁷⁸ The regime in force was rather impoverished as the juvenile offenders could not participate in the various activities offered to the mainstream population (for example, recreational, vocational, work and cultural activities). In practice, the young persons spent most of the day in one of the communal rooms⁷⁹ watching television and playing board games and had access to the outdoor area for two to three hours a day,⁸⁰ where they could play football and basketball and exercise in a tiny outdoor gym with very poor and antiquated equipment.⁸¹ Two educators were assigned to the unit and acted as the main point of contact for the juveniles. In addition, there was an educational class as well as an art and literature workshop once a week.⁸² In summary, due to the penury of purposeful activities on offer for the young persons, reintegration into the mainstream population depended on demonstrating good behaviour and volunteering for cleaning and maintenance work. Some of the young persons had spent almost three years at the unit and were about to be released. By letter received on 13 June 2023, the Serbian authorities informed the Committee that the management of Kruševac VPD had taken measures to increase the level of activities offered in the intensive care unit, including the offer of specific programmes for the prevention of drug and alcohol addiction, for perpetrators of violent crimes, for the prevention of suicide and self-harm, as well as an expansion of the range of recreational activities offered (such as various sports and chess).

87. The CPT recommends that the Serbian authorities take concerted steps to ensure that all juvenile offenders in the intensive care unit of the Kruševac VPD are offered a comprehensive programme of education, sports, vocational training, recreation and other purposeful and structured activities, tailored to their individual needs and designed to fulfil the functions of personal and social development, rehabilitation and preparation for release, in light of the European Rules for Juvenile offenders subject to sanctions or measures. A behavioural approach can be beneficial in encouraging young persons to abide by the norms of living within a group and pursue constructive paths of self-development. Further, physical education should be an important part of this programme and in this respect immediate and urgent steps should be taken to provide balls for football and basketball training, to equip the gym with more exercise machines and to repair the table tennis set. In particular, the intensive care unit should provide a targeted regime for juvenile offenders in order to facilitate their reintegration into mainstream society. The unit should also be staffed by a full-time multidisciplinary team of educators, psychologists and social workers.

79. Pursuant to Article 12 of the Rulebook on House Rules of Kruševac VPD.

80. Rooms were locked during the day until 18:00 and 20:00 on weekends.

81. Pursuant to Article 16 of the Rulebook on House Rules of Kruševac VPD.

82. Namely, an old and worn push-up bench and concrete weights.

83. The course and workshops were offered by a teacher and instructors from other pavilions.

e. healthcare

88. The healthcare staffing complement of Kruševac VPD consisted of one full-time GP, four medical technicians ensuring a full-time presence and one full-time dentist. One neuropsychiatrist was visiting the establishment three times a week.⁸³ The infirmary, located in Pavilion B, consisted of an examination room, one room for patients and one dentist's room. The premises were in an adequate state of repair and hygiene and the pharmacy well resourced. However, the infirmary lacked an ECG and defibrillator. **The CPT recommends that the infirmary of Kruševac VPD be equipped with a defibrillator and ECG machine and staff trained in its use, and that a new dentist's chair be purchased.**

89. The legislation requires that juveniles be medically screened within 24 hours of admission and systematically screened annually (in addition to ad hoc special examinations).⁸⁴ The medical screening consisted of a full medical history, including screening for tuberculosis in the form of thoracic x-ray and blood tests for the detection of HCV, HBV and HIV. Vaccination against tetanus was proactively offered but vaccination against HBV was no longer offered. As mentioned above, injuries were described in some detail and photographed. However, the doctor did not explain the compatibility of the injuries with the allegation or the mechanism of the injuries. **The recommendation formulated in paragraph 17 on the need to accurately describe the injuries observed on detained persons is also applicable in this context.**

90. The health unit had a good interface with the local hospital and, if necessary, juveniles were referred to the Special Prison Hospital in Belgrade. Medical confidentiality was respected and dental care was provided in the form of extractions. Medication was distributed exclusively by medical staff.

f. staff

91. The establishment was staffed by 76 custodial officers⁸⁵ out of 88 budgeted posts. The intensive care department was staffed by three custodial prison officers at each shift and two educators were assigned to the unit.

92. In terms of training, the delegation was informed that there was no specific module in place at the Training Centre for Penitentiary Staff in Niš for staff working with juvenile offenders. However, an NGO had devised a comprehensive training programme for staff with different modules and held three sessions. The training included modules on the detection of risks and prevention of suicide.

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

In light of the above remarks, **the CPT recommends that the Serbian authorities put in place measures to extend the initial and on-going training of custodial staff working in the facilities accommodating juveniles, as well as adequate psychological support and remuneration to reflect the challenging nature of the role of a custodial officer.**

⁸⁴Due to the focused nature of the visit, the delegation did not have the opportunity to examine issues related to mental health and psychological distress in juvenile offenders.

⁸⁵ Pursuant to Article 45, paragraph 4 of the of the Rulebook on House Rules of Kruševac VPD.

⁸⁶ Six of whom were female custodial officers.

g. discipline and security measures

93. The legislation provides that juvenile offenders may be separated in pairs in a cell of the disciplinary/segregation unit to serve a disciplinary sanction of up to 15 days.⁸⁶ In addition, juveniles could be preventively segregated for a period of seven days and for up to three months in the case of security threats and serious disturbances to the establishment. In such cases, the management of the VPD applies an enhanced supervision measure (*Odeljenje pojačanog nadzora* or OPN) in accordance with the Law on Enforcement of Criminal Sanctions, which can be applied in such cases as provided for in the Law on Juvenile Offenders.⁸⁷

At the time of the visit, 10 juveniles were serving either a disciplinary measure of placement in a separate cell or an OPN measure in five cells located on the ground floor of the intensive care unit.⁸⁸ One cell measured 17 m² and was equipped with two bunk beds, a table and stool fixed to the floor and a separate sanitary annex with a toilet, washbasin and shower. The remaining four cells measured only 6 m² (1.9 metres wide) and were equipped only with a bunk bed and a semi-partitioned sanitary annex equipped with a toilet and washbasin.⁸⁹ There were also two additional cells for the enforcement of disciplinary sanctions and enhanced supervision measures in the A0 Block which were empty at the time of the visit and whose design was less carceral. They measured 14 and 12 m² respectively and were each equipped with three beds fixed to the floor, tables, chairs and a fully partitioned sanitary annex with toilet, sink and shower.

94. The regime applied to juvenile offenders in the disciplinary/segregation section of the intensive care unit consisted of only one to two hours of access to a courtyard per day. Segregated juvenile offenders had daily contact with an educator, were visited by a member of the healthcare staff on a daily basis and the Director of the VPD every three days. However, they were not offered any activities.

95. In terms of legal safeguards disciplinary sanctions and enforced supervision were imposed by the Director and written decisions were handed over to juveniles. Decisions on enhanced supervision were imposed for a period of three months (renewable) and could be appealed to the relevant court in line with the relevant provisions of the LECS. The juveniles were found to be well aware of their rights and avenues of complaint.

96. The CPT must stress that any form of isolation may have a detrimental effect on the physical and/or mental wellbeing of juveniles. In this regard, the Committee observes an increasing trend at the international level to abolish solitary confinement as a disciplinary sanction in respect of juveniles. Particular reference should be made to the United Nations Standard Minimum Rules on the Treatment of Prisoners (Nelson Mandela Rules), which have recently been revised by a unanimous resolution of the United Nations General Assembly and which explicitly stipulate in Rule 45 (2) that solitary confinement shall not be imposed on juveniles. Further, reference is also to Rule 67 of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty known as the "Havana Rules" which states that any form of confinement which should affect the physical and mental integrity of juvenile offenders should be specifically prohibited.⁹⁰

87. Pursuant to Article 130 of the LJOCM and Article 71 of the Rulebook on House Rules of Kruševac VPD.

88. Article 88 of the Rulebook on House Rules of Kruševac VPD stipulates that the Law on Enforcement of Criminal Sanctions can be applied in respect of all aspects of disciplinary and segregation proceedings of juvenile offenders which are not regulated by the same Rulebook.

89. Four were serving a disciplinary measure and six an enhanced supervision measure.

90. Article 73 of the Rulebook on House Rules of Kruševac VPD stipulates that a disciplinary/segregation room must provide a living space of at least 6 m² per juvenile offender. The juvenile offenders were taking showers three times a week in the common sanitary facility of the intensive care unit.

91 See Rule 67 of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty adopted by the United Nations General Assembly resolution 45/113 of 14 December 1990.

98. The CPT recognises that it may be necessary to segregate juvenile offenders for security or safety reasons (for instance, to protect highly vulnerable juveniles or deal with juveniles who pose a threat to others). However, measures of this kind should only be ordered in very exceptional circumstances and for as short a time as possible. Further, the Committee considers that a revised individual treatment plan should be drawn up together with the juvenile's placement in a separate cell, setting out the objectives and goals to be achieved in order to successfully reintegrate them into the general population.

The CPT recommends that the Serbian authorities review the relevant provisions (including the application of elements of the Law on Execution of Criminal Sanctions) surrounding the placement of juvenile offenders in pairs in a cell of the intensive care unit of Kruševac VPD serving a disciplinary or an enhanced supervision measure (OPN) for a maximum period of three/four days. In particular the five cells of the disciplinary quarter of the intensive care unit should be taken out of use and instead the two cells of the Block A0 should be used for this purpose.

h. use of means of restraint

99. The legislation foresees that the means of restraint of physical force and use of rubber truncheons could be exceptionally applied in respect of juveniles in order to prevent physical attacks against a member of staff or other detained persons and acts of self-harm⁹² The registers showed that the application of means of restraint had been resorted to in 43 instances since January 2021.

100. The reports on the application of means of restraint examined contained a description of facts, statements of officials and juvenile offenders, and medical documentation with a description of injuries, and were reported to the Director and to the Ministry of Justice.⁹¹ However, there was no reporting directly to the judicial authorities and it appeared that there was no review of the proportionality of the application of the measure. The explanation of the last resort nature and proportionality of the application to the measure of use of rubber truncheon did not appear to be totally convincing⁹² neither was there any mention of the relevant technique of physical force employed. Further, several juvenile offenders from the intensive care unit also told the delegation to be routinely handcuffed during their transfers from the unit to the infirmary in Block B while being in a vehicle.

The CPT recognises that prison staff may occasionally have to use force to control young persons who are acting violently. However, such force should be exceptional when it concerns juveniles. It is therefore important that any use of force is strictly regulated, as laid down in the above-mentioned rulebook.

The CPT recommends that the Serbian authorities review the application of the use of force at Kruševac VPD to ensure that every use of force and means of restraint against a juvenile offender is fully documented and subject to strict supervision by the prison management. In particular, it should include clear explanations of the reasons for its use in terms of its last resort nature and proportionality, clearly explaining why other de-escalation measures may have failed. In addition, all reports of the use of force and restraint on juvenile offenders should also be brought to the attention of the competent juvenile judge and prosecutor.

Further, the CPT recommends that the Serbian authorities should ensure that every custodial officer receives regular training in the use of restraints, including manual control techniques and de-escalation skills, to ensure that all interventions with challenging prisoners are managed professionally. In parallel, the use of truncheons by staff working in juvenile establishments should be phased out and truncheons should not be visibly worn by custodial staff in detention areas. The CPT recommends that the Serbian authorities to review the systematic use of handcuffs for all transfers of juveniles from the intensive care unit to the

92. Pursuant to Article 89 of the Rulebook on House Rules of Kruševac VPD.

93. Administration and included in the mandatory electronic recording system SAPA.

94. Such as, for example, the explanation of the reason why physical force and use of rubber truncheons were considered to be absolutely necessary to contain episodes such as those described in paragraph 82.

infirmery of Kruševac VDP; their application should in each case be based upon a risk assessment.

i. contact with the outside world

101. The legislation foresees that juveniles may receive one visit per week from families and relatives, and from non-family related persons twice a month.⁹³ Further, juveniles are entitled to one telephone call per day. The legislation also foresees the possibility of extended leave, weekend permits and one-day leave, which appeared to be widely enjoyed by the population but not by those juveniles accommodated in the intensive care unit.

j. complaints and inspection procedures

102. Juvenile offenders were aware of their legal remedies and a new information brochure had been designed by the management of the institution. Juveniles could lodge their complaints to the management in a special box, as well as with the relevant judicial authorities in a second instance procedure.⁹⁴ However, the number of complaints was low as juveniles preferred to express their concerns to the educator or the director. For example, because of their dissatisfaction with an educator's performance, which they expressed to the director, the educator was transferred.

103. The competent juvenile court judge and public prosecutor must visit the VPD every six months and meet the juvenile offender under their jurisdiction, together with the relevant staff in order to assess the legality of the enforcement of the measure and to decide on its renewal or termination.⁹⁵ The visits had been resumed after a break during the pandemic. Juvenile offenders, their parents or guardians could also initiate a revision of their educational measure at any time pursuant to Article 117 of the LJOCM.

104. The NPM had also visited the institutions in late 2021 and had drawn up a detailed report of its findings, to which the management had responded.

95. Pursuant to Article 26 of the Rulebook on House Rules of Kruševac VPD.

96. Pursuant to Article 97 of the LJOCM.

97. Pursuant to Article 155 of the LJOM.

APPENDIX I –

ESTABLISHMENTS VISITED

The delegation visited the following places of detention:

Establishments under the authority of the Ministry of the Interior

- Metropolitan Police Headquarters, 29th November Street, Belgrade
- Stari Grad Police Station, Belgrade
- Novi Beograd Police Station, Belgrade
- Headquarters of the Service for combatting Organised Crime (SBPOK), Belgrade
- Zemun Police Station, Belgrade
- Novi Sad District Police Station
- Ruma Police Station

Establishments under the authority of the Ministry of Justice (remand sections only)

- Belgrade District Prison
- Novi Sad District Prison
- Sremska Mitrovica Penal Correctional Institution (KPZ)
- Subotica District Prison
- Kruševac Educational Correctional Facility for juvenile offenders (intensive care unit)

APPENDIX II –

NATIONAL AUTHORITIES AND ORGANIZATIONS WITH WHICH THE DELEGATION HELD CONSULTATIONS

A. National authorities

Ministry of Interior

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| Bratislav GAŠIĆ | Minister |
| Danilo STEVANDIĆ | Secretary of State |
| Veselin MILIĆ | Deputy Director of Police |
| Goran ČOLIĆ | Head of the Internal Control Sector |
| Dejan KOŠANIN | Deputy Head of the Internal Control Sector |
| Milivoj NEDIMOVIĆ | President of the Commission for the Implementation of Standards of Police Treatment in the Field of Torture Prevention |

Ministry of Justice

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| Dejan CAREVIĆ | Director of the Administration for the Enforcement of Criminal Sanctions |
| Aleksandra STEPANOVIĆ | Head of the Department for Protection of the Rights of Persons Deprived of Liberty |
| Milan TANASKOVIĆ | Head of the Department for Material and Financial Affairs |

Republican Public Prosecutor

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| Jasmina KIURSKI | Deputy Republican Public Prosecutor |
| Tamara MIROVIĆ | Deputy Republican Public Prosecutor |

B. Protector of Citizens of the Republic of Serbia

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| Zoran PAŠALIĆ | Protector of Citizens |
| Nataša TANJEVIĆ | Head of National Preventive Mechanism |

C. Non-governmental Organisations

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| Belgrade Centre for Human Rights (BCHR) |
| Lawyers' Committee for Human Rights (YUKOM) |