

## **Report**

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

**from 5 to 14 April 2011**

The Government of Bosnia and Herzegovina has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2012) 16.

Strasbourg, 26 April 2012



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**Copy of the letter transmitting the CPT's report**

Ms Minka Smajević  
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Bosnia and Herzegovina

Strasbourg, 20 July 2011

Dear Ms Smajević,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I enclose herewith the report to the Government of Bosnia and Herzegovina drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its visit to Bosnia and Herzegovina from 5 to 14 April 2011. The report was adopted by the CPT at its 75th meeting, held from 4 to 8 July 2011.

The recommendations, comments and requests for information formulated by the CPT are listed in Appendix I of the report. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the Committee requests the authorities of Bosnia and Herzegovina to provide within **six months** a response giving a full account of action taken to implement them. The CPT trusts that it will also be possible for the authorities of Bosnia and Herzegovina to provide, in that response, reactions and replies to the comments and requests for information.

I am at your entire disposal if you have any questions concerning either the CPT's report or the future procedure.

Yours sincerely,

Lətif Hüseyinov  
President of the European Committee for the  
Prevention of Torture and Inhuman  
or Degrading Treatment or Punishment



## I. INTRODUCTION

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

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as “the Convention”), a delegation of the CPT carried out a visit to Bosnia and Herzegovina from 5 to 14 April 2011. The visit was organised within the framework of the CPT’s programme of periodic visits for 2011; it was the Committee’s fifth visit to Bosnia and Herzegovina.

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

- Wolfgang HEINZ, Head of delegation
- Eugenijus GEFENAS
- Mykola GNATOVSKYY
- Pétur HAUKSSON
- Sonja KURTEN-VARTIO
- Ilvija PŪCE
- Olivera VULIĆ.

They were supported by the following members of the CPT’s Secretariat:

- Hugh CHETWYND (Head of Division)
- Christian LODA
- Elvin ALIYEV

and assisted by

- Spomenka BEUS, interpreter
- Danica CUK-LALIĆ, interpreter
- Ksenija KEIVANZADEH, interpreter
- Senada KRESO, interpreter
- Amira SADIKOVIĆ, interpreter.

**B. Establishments visited**

3. The delegation visited the following places:

**Police establishments**

*Federation of Bosnia and Herzegovina*

- Federal Directorate of the Police, Sarajevo
- Goražde Police Station, Canton of Bosna Podrinje
- Konjic Police Station, Canton of Herzegovina-Neretva
- Mostar Centar Police Station, Canton of Herzegovina-Neretva
- Novo Sarajevo Police Station, Canton of Sarajevo
- Sarajevo Centar Police Station, Canton of Sarajevo

*Republika Srpska*

- Banja Luka Central Police Station
- Banja Luka Laktaši Police Station
- Bosanska Gradiška Police Station
- Foča Police Station
- Istočno Sarajevo Police Station
- Sokolac Police Station

**Immigration detention centres**

*State of Bosnia and Herzegovina*

- Lukavica immigration detention centre

**Prison establishments**

*State of Bosnia and Herzegovina*

- Pre-trial detention centre, Sarajevo

*Federation of Bosnia and Herzegovina*

- Remand section of Mostar Prison
- Sarajevo Remand Prison
- Zenica Closed Prison (High-security unit)

*Republika Srpska*

- Banja Luka Prison
- Doboj Prison
- Foča Closed Prison
- Remand section of Istočno Sarajevo Prison



### **Prosecutor's Offices**

*Republika Srpska*

- Istočno Sarajevo District Prosecutor's Office
- Special Prosecutor's Office for Combating Organised Crime, Banja Luka

### **Psychiatric institutions**

*Federation of Bosnia and Herzegovina*

- Forensic Psychiatric Annexe in Zenica Prison

*Republika Srpska*

- Sokolac Psychiatric Clinic

### **Social care homes**

*Federation of Bosnia and Herzegovina*

- Fojnica "Drin" Home for Mentally Disabled Persons

## **C. Consultations held by the delegation**

4. In the course of the visit, the delegation held consultations with Bariša ČOLAK, State Minister of Justice, and Stanislav ČADO and Džerard SELMAN, the Ministers of Interior and Justice of the Republika Srpska, as well as with senior officials from relevant State and Entity Ministries. It also met the State Ombudsman and the Chief Prosecutor of the Republika Srpska, and held discussions with members of non-governmental and international organisations active in areas of concern to the CPT

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

**D. Cooperation between the CPT and the authorities of Bosnia and Herzegovina**

5. The degree of cooperation received during the visit from the authorities of Bosnia and Herzegovina was, with one exception, very good at all levels. The delegation noted that, in general, information about a possible visit by the CPT, and the Committee's mandate and powers, had been provided to places used for holding persons deprived of their liberty; consequently, the delegation had rapid access to the establishments it wished to visit, to the documentation it wanted to consult and to individuals with whom it wished to speak.

The exception related to a refusal of access on 8 April 2011 to the holding cells located in the Office of the Special Prosecutor for Organised Crime in Banja Luka. The duty investigator and his superiors claimed to have no knowledge of the Committee's mandate and the liaison officer was unable to convince them to permit the delegation access<sup>1</sup>. The situation was resolved the following day and a visit to the cells was carried out.

**The Committee trusts that, in future, the credentials supplied by the State authorities will be valid for all places in Bosnia and Herzegovina where persons may be deprived of their liberty by a public authority, and that all relevant staff will be informed of the Committee's mandate and powers.**

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<sup>1</sup> The delegation was informed that no one was in detention at the time of the visit, and an examination of the records the following day confirmed this fact.

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

### **A. Law enforcement agencies**

#### **1. Preliminary remarks**

6. Deprivation of liberty by the police continues to be regulated by the criminal codes and criminal procedure codes which entered into force at the level of the State, Federation of Bosnia and Herzegovina, Republika Srpska and the Brčko District in the course of 2003. Persons deprived of their liberty by the police on suspicion of having committed a criminal offence must be brought before a prosecutor within 24 hours, who must, within the following 24 hours, either submit a request to the preliminary proceedings judge to remand the suspect in custody or order release<sup>2</sup>. Thus, the maximum period of police custody is 48 hours.

Competence for police matters lies with the Ministries of Interior of the Republika Srpska, the ten cantons of the Federation of Bosnia and Herzegovina and the Brčko District. The Ministry of Interior of the Federation has limited policing competencies (notably, combating international and inter-cantonal crimes). At the level of the State, law enforcement competencies are under the Ministry of Security and carried out by three agencies: the State Investigation and Protection Agency (SIPA), tasked inter alia with facilitating inter-entity and regional cooperation in combating organised crime, human trafficking and international terrorism; the State Border Police, responsible for monitoring the frontiers and for the detention of irregular migrants; and the State Intelligence Service.

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

7. In contrast to the findings during the 2007 visit, the CPT's delegation received a considerable number of credible allegations of serious physical ill-treatment by the police and other law enforcement officials. The alleged ill-treatment mostly concerned kicks and punches to various parts of the body as well as blows with batons and baseball bats; however, detailed allegations were also received of handcuffing in stress positions for hours on end, the placing of plastic bags over the heads of suspects, and the infliction of electric shocks. Further, several persons stated that they had had the barrel of a pistol inserted into their mouth during questioning or even cocked and pointed at their temple.

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<sup>2</sup> See Articles 134, 135 and 139 of the State Criminal Procedure Code; Articles 148 and 153 of the Federation of Bosnia and Herzegovina Criminal Procedure Code; Articles 191 and 196 of the Republika Srpska Criminal Procedure Code.

The majority of the allegations concerned the time when suspects were being questioned by crime inspectors in their offices, sometimes for prolonged periods, prior to being placed in holding cells or transferred to the prosecutor's offices. The information gathered by the CPT's delegation indicates that the infliction of ill-treatment for the purposes of trying to extort a confession is a frequent practice by crime inspectors at Banja Luka Central Police Station. More specifically, its delegation received several consistent allegations of the use of small hand-held electric charge prods by these last-mentioned inspectors during the interrogation of suspects. The allegations were made by both remand and sentenced prisoners in the four prisons visited in the Republika Srpska. In a number of instances, the allegation of the use of an electric shock device by the police on a detained person was recorded by the Banja Luka Prison doctor in the medical file of the persons concerned following his or her admission to the establishment.

Several allegations were received of ill-treatment by law enforcement officials at the time of arrest or during transfer from the place of arrest to a police station, including as regards persons apprehended by SIPA. The persons concerned stated that they were punched, kicked and, in some cases, received blows from a baton after they had been brought under control and handcuffed.

8. In a number of cases, the delegation gathered medical and other documentation which was consistent with the allegations of ill-treatment made by detained persons. The following represents a sampling of such cases:

i) In one case, a person was arrested on 25 March 2011 in Sarajevo and brought to Istočno Sarajevo Police Station some time around midday. Allegedly, he was then subjected to repeated kicks and punches to the body by several crime inspectors and uniformed police officers while handcuffed to a radiator in an office. Apparently, one officer told her colleagues not to hit him around the head as that would leave visible marks. The person also alleged that he was placed in stress positions and that a plastic bag was repeatedly placed over his head. He claimed to have spent the night sitting on a chair handcuffed to a radiator in one of the two holding cells. The following morning he was allegedly again punched and kicked in a crime inspector's office before being taken to the District Prosecutor at 2.30 p.m. The prosecutor ordered the detained person to be taken to the local hospital for a medical examination.

The medical certificate from the Clinical Centre Istočno Sarajevo stated: "hit on the left side of the thorax, abrasion in the area of the lower part of the sternum, Lesion of the left iliotibial tract; X-ray shows suspected fracture of tenth rib on the left side".

ii) In another case of alleged ill-treatment at Istočno Sarajevo Police Station on 27 March 2011, a person stated that while he was handcuffed to a radiator, he was punched and kicked and several glass bottles were thrown at him. The detention register states that he arrived at the police station without any visible injuries but according to the certificate on the transfer of the individual to the prosecutor's office, he had "visible injuries in the form of scars above left eye and on his nose". His medical file at Istočno Sarajevo Prison states, "injuries on the chest and legs, excoriation on the face".

iii) One person met by the delegation alleged that on 7 April 2011 he was stopped on the street by the police in Mostar, taken out of his car and subjected to kicks and punches to the body and genitalia. Due to his injuries, he was taken to an emergency medical centre where he was treated and an X-ray taken. According to the medical file, he “feels pain in the right lumbar area and right side of the chest, and also pain in the head”, and he was diagnosed as having “Hit on the central and upper back part of the left side of the head. Fracture of ribs 8-9. Hit on the right side of the abdomen, hit on the left side of the lower part of the back.”

iv) A person detained in Banja Luka Central Police Station on 1 June 2010 alleged that he had been subjected to blows with a baseball bat to the body by crime inspectors. A certificate from the Banja Luka Clinical Centre of 2 June 2010 stated the following “Bruising of left upper-arm, bruising on the right side of the upper back”. Two days later the Banja Luka Prison doctor noted in the inmate’s medical record “haematomas on the right shoulder and left arm 8 x 6 and 14 x 6 cm”.

v) Another person detained in Banja Luka Central Police Station, on 3 June 2010, alleged that he received blows with a stick to his upper body while wearing a bullet-proof vest, was handcuffed to a radiator in a stress position for several hours and was subjected to several charges from a hand-held electro-shock device. His medical record at Banja Luka Prison stated that he complained of police ill-treatment and “claims he sustained hit on right ear by police inspectors”. He was referred to hospital on 8 June 2010 where he was diagnosed with a ruptured right ear drum.

vi) A person detained for questioning in Prijedor Police Station in early July 2010 and released the following day, alleged that crime inspectors from Banja Luka subjected him to blows with a baseball bat to the body and repeatedly kicked him in the head while he was handcuffed. His discharge letter from the clinic for maxillofacial surgery of 16 July 2010 states that he was admitted as a patient for the treatment of a broken lower jaw. He claimed that when he was arrested again in early August 2010 by the same crime inspectors, he was slapped several times and threatened with another beating unless he made a written confession.

vii) A person apprehended on 1 October 2010 and taken to Banja Luka Central Police Station alleged that crime inspectors punched, kicked and subjected him to blows with a baseball bat. The next day he was taken to the Clinical Centre of Banja Luka for treatment and the medical certificate states: “Abrasion to the right cheek and above the right eye-socket; bruising on the right thigh; bruising on the left upper-arm. The delegation subsequently visited the office of a particular crime inspector in Banja Luka Central Police Station who had allegedly inflicted the ill-treatment; it found three baseball bats in this inspector’s office.

viii) A person apprehended on the street and taken to Banja Luka Police Station on 5 February 2011 alleged that he was kicked and punched repeatedly in the offices of the crime inspectors. He was taken to the Clinical Centre of Banja Luka for treatment and the discharge medical certificate states: “Patient came to our institution with injuries inflicted by police. He claims that he had been beaten all over body, especially to the head, face, upper and lower extremities. He has a strong pain in left elbow, especially on movement. Haematomas on the region of left and right elbows. Right hand painful on palpation, haematoma visible. Visible haematomas on his back, also on the lateral sides of both thighs.”

ix) The CPT's delegation also heard about several serious allegations of ill-treatment made by a group of persons suspected of involvement in a kidnapping case falling under the jurisdiction of the Special Prosecutor for Organised Crime in the Republika Srpska. Allegations of ill-treatment were made against the investigators of the Special Prosecutor and crime inspectors of Banja Luka Central Police Station and included blows to the body with truncheons and a baseball bat (while wearing a bullet-proof vest), the placing of a plastic bag over the head, and the infliction of electric shocks with a hand-held device. The allegations were recently reported extensively in the press. One of the persons had complained about the alleged ill-treatment when he was brought before the judge to be remanded in custody in October 2010; at the judge's order, he was examined by the local clinic and several injuries are noted down in his medical file (although no forensic medical examination was carried out). The CPT understands that his complaint was examined by a special prosecutor<sup>3</sup>.

9. It should be noted that the CPT's delegation found a number of unlabelled items such as baseball bats, shotguns, hunting knives, crowbars and metal piping in interview rooms in several police stations visited. There is no legitimate reason for such objects to be kept in rooms used for interviewing suspects. In most instances, the duty police officers acknowledged that items of property seized during criminal investigations should be entered in a separate register, properly labelled (identifying the case to which they refer) and stored in a dedicated property store. Apart from inviting speculation about improper conduct on the part of police officers, objects of this kind are a potential source of danger to staff and criminal suspects alike.

10. The seriousness of the information gathered in the course of the 2011 visit concerning ill-treatment calls for immediate and determined action by the authorities. All means should be explored to ensure that the message of zero tolerance of ill-treatment of detained persons reaches all law enforcement officials at all levels; they should be made aware, through concrete action, that the government is resolved to stamp out ill-treatment of persons deprived of their liberty. The rule of law entails not only the adoption of the appropriate legal norms but also taking the necessary steps to ensure their application.

**The CPT recommends that the Ministers of Interior and Police Commissioners deliver a strong message that the ill-treatment of detained persons is illegal, unprofessional, and will be the subject of severe sanctions. This message should be reiterated at appropriate intervals by the Chiefs of Police. Further, the relevant authorities should ensure that an investigation is carried out into every allegation of ill-treatment and that senior officers are held accountable for their line-management responsibilities.**

**Further, the CPT recommends that an independent inquiry be carried out into the methods used by crime inspectors at Banja Luka Central Police Station when detaining and interviewing suspects.**

**As regards cases i) and ii) referred to in paragraph 8 above, the delegation was informed that the prosecutor had initiated an investigation; the CPT would like to be informed of its outcome. The Committee would also like to receive information on the outcome of the investigation into the allegations of ill-treatment in case ix), as well as a copy of the complainant's medical file.**

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<sup>3</sup> The detained person in question said that he was never interviewed by the prosecutor about the alleged ill-treatment he received.

As regards the allegations of ill-treatment at the time of arrest, the CPT recognises that the arrest of a suspect is often a hazardous task, in particular if the person concerned resists and/or is someone whom the police have good reason to believe may be armed and dangerous. The circumstances of an arrest may be such that injuries are sustained by the person concerned (and by police officers), without this being the result of an intention to inflict ill-treatment. **However, no more force than is strictly necessary should be used when effecting an arrest and, once arrested persons have been brought under control, there can never be any justification for striking them. Police officers should be reminded regularly, and in an appropriate manner, of these basic principles.**

**The CPT would also like to receive confirmation that all unauthorised items have now been removed from interview rooms (i.e. the offices of crime inspectors).**

11. As stated in previous reports, it is essential that police officers view ill-treatment as an unprofessional means of carrying out their duties, as well as being a criminal act. This implies strict selection criteria at the time of recruitment and the provision of adequate professional training, both initial and in-service. Such training should seek to put across and develop two points: firstly, that all forms of ill-treatment are an affront to the human dignity of both the victim and the perpetrator and, as such, are incompatible with the values enshrined in the Constitution and laws as well as in international instruments ratified by and binding upon Bosnia and Herzegovina; secondly, that resort to ill-treatment is a fundamentally-flawed method of obtaining reliable evidence for combating crime. More advanced interrogation and investigation techniques will lead to better results from a security standpoint.

**The CPT reiterates its recommendation that the authorities pursue a multifaceted approach, comprising: a competitive recruitment process based upon strict selection criteria; an educational training course for all new recruits; and the provision of specific competency courses, on a regular basis, for serving police officers, both to update their skills and knowledge and to provide them with new competencies.**

12. An atmosphere must be created in which the right thing to do is to report ill-treatment by colleagues; there must be a clear understanding that culpability for ill-treatment extends beyond the actual perpetrators to anyone who knows, or should know, that ill-treatment is occurring and fails to act to prevent or report it. This implies the existence of a clear reporting line as well as the adoption of whistle-blower protective measures (i.e. a framework for the legal protection of individuals who disclose information on ill-treatment and other malpractice). **In this context, the CPT recommends the adoption of whistle-blower protection legislation.**

13. The CPT wishes to re-emphasise the important role of the judicial and prosecutorial authorities in the prevention of ill-treatment. Many persons interviewed by the delegation stated that their attempts to complain to the prosecutor or to the judge before whom they were brought had either met with no response or been held against them. The advice of lawyers was apparently not to complain as it would only complicate the proceedings and undermine efforts to reach a plea agreement. Other persons told the delegation that the officers who had inflicted the ill-treatment subsequently accompanied them to the prosecutor's office and to the court and threatened them with further punishment if they made a complaint.

In those cases in the Republika Srpska when the prosecutor or judge had ordered a medical examination to be carried out, the person concerned would be sent to an emergency clinic for an examination. However, in most instances the detained person was escorted to the medical centre by the police officers whom he alleged had inflicted the ill-treatment. Further, the medical examination was carried out in the presence of the police officers. In addition, in most cases the examination appeared not to be thorough. The CPT's delegation was also informed by the prosecutors with whom it met that a forensic medical examination would only be carried out if the prosecutor deemed this step necessary after having received the results of the initial medical examination.

14. It goes without saying that prosecutors and judges should take appropriate action when there are indications that ill-treatment by the police may have occurred. In this regard, **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 express 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 him could have been the victim of ill-treatment.**

**The Chief Prosecutors in both Entities should recall firmly that prosecutors should act in accordance with the above principles.**

**The CPT also recommends that the police officers charged with escorting the detained person to the doctor are not the same ones against whom the allegations of ill-treatment are directed. In such cases, the duty of escorting detained persons to a medical clinic should be entrusted to judicial police officers. Further, the confidentiality of medical examinations should be respected and the results of the examination made available to the detained person (see also paragraph 20).**

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

15. The CPT continues to be concerned about the inadequate application in practice of the formal provisions regarding safeguards against ill-treatment – namely, the right of those concerned to inform a close relative or another third party of their choice of their situation; the right of access to a lawyer; and the right of access to a doctor. Further, it would appear that persons deprived of their liberty by law enforcement officials are not always informed without delay of all their rights.

16. Once again, many persons interviewed by the CPT's delegation alleged that the right of notification of custody<sup>4</sup> had not been granted to them as from the outset of their deprivation of liberty. Instead an opportunity to notify relatives of their custody was apparently only granted after the questioning by the police had been terminated and the statement drawn up.

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<sup>4</sup> As provided for in Article 5 of the State and Entity Codes of Criminal Procedure.



**The CPT reiterates its recommendation that the authorities of Bosnia and Herzegovina ensure that all detained persons are granted the right to notify a close relative or third party of their choice of their situation as from the very outset of their deprivation of liberty by the police.<sup>5</sup>**

17. As regards the right of access to a lawyer<sup>6</sup>, the CPT's delegation found that the situation had not evolved since previous visits. Yet again, in spite of the clear obligation in law to grant access to a lawyer as from the outset of deprivation of liberty, this rarely occurred. Only a small number of detained persons met by the delegation said that they had been granted access to a lawyer while in police custody; and most of these persons claimed that access had been delayed until the end of the preliminary investigation (i.e. up to 24 hours after their apprehension and only once they had given a signed statement). The vast majority of persons met stated that they had not had an opportunity to consult with a lawyer, in private, prior to appearing in court (i.e. up to 48 hours after the person concerned was first apprehended by the police). And many persons complained that the duty lawyer provided for the court hearing did nothing more than sit in silence throughout the proceedings.

18. The CPT is obliged to reiterate its concern at this state of affairs. The Committee recalls that it is during the period immediately following the deprivation of liberty that the risk of intimidation and ill-treatment is greatest. Consequently, the possibility for persons taken into custody to have access to a lawyer during this period is a fundamental safeguard against ill-treatment.

The right of access to a lawyer must include the right for any person deprived of their liberty to talk to his lawyer in private upon being admitted into the police station. The person concerned should, in principle, be entitled to have a lawyer present during any interrogation, whether this be before or after he is charged. Naturally, the fact that a detained person has stated that he wishes to have access to a lawyer should not prevent the police from beginning to question him on urgent matters before the lawyer arrives. Provision could also be made for the replacement of a lawyer who impedes the proper conduct of an interrogation, on the understanding that such a possibility should be strictly circumscribed and subject to appropriate safeguards.

**The CPT reiterates its recommendation that the authorities of Bosnia and Herzegovina ensure that the right of access to a lawyer, as defined above, is both explicitly granted in law and rendered effective in practice for everyone deprived of their liberty by the law enforcement authorities, from the very outset of their deprivation of liberty.**

19. The CPT's delegation received many complaints about the quality of the advice provided by *ex officio* lawyers. The matter of greatest concern to the CPT is the apparent advice by lawyers to their clients not to raise the matter of ill-treatment as it would jeopardise the possibility of achieving a favourable outcome in the plea bargaining procedure. **The CPT recommends that the authorities bring to the attention of the Bar Associations the above-mentioned concerns of the Committee.**

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<sup>5</sup> Any possibility exceptionally to delay the exercise of this right should be clearly circumscribed in law and any such delay should be made subject to appropriate safeguards (i.e. the decision to delay to be recorded in writing along with the reason therefor, and to require the approval of a prosecutor or judge) and strictly limited in time.

<sup>6</sup> As provided for in Article 5 of the State and Entity Codes of Criminal Procedure.

20. The right of persons in police custody to have access to a doctor is still not formally guaranteed by law in Bosnia and Herzegovina. In the course of the visit, a number of persons who alleged ill-treatment by police officers stated that they had not been offered the opportunity to contact a doctor. Access to medical care was generally only provided when ordered by a prosecutor or judge or when the prison establishment refused to accept a particular person from the police because they displayed injuries.

**The CPT reiterates its recommendation that specific legal provisions be adopted on this subject, stipulating inter alia that:**

- **a doctor must be called or a person taken to a medical facility without delay if a detained person requests a medical examination. Further, even in the absence of such a request, the above-mentioned action must be taken if a person in police custody is in apparent need of medical treatment.**
- **a person taken into police custody has the right to be examined, if he or she so wishes, by a doctor of his or her own choice, in addition to any medical examination carried out by a doctor called by the police authorities (it being understood that an examination by a doctor of the detained person's own choice may be carried out at his own expense);**
- **all medical examinations of persons in police custody, whether carried out on police premises or in a health care facility, are to take place out of the hearing and - unless the doctor concerned expressly requests otherwise in a given case - out of the sight of police officers;**
- **the results of every examination, as well as any relevant statements by the person in custody and the doctor's conclusions, should be recorded in writing by the doctor and made available to the detained person and upon request to his or her lawyer.**

21. Nearly all persons met by the delegation stated that they had not been informed of their rights verbally upon apprehension nor in the police station until after they had made a written statement.

As noted in previous visit reports, the standardised custody registers (*registar/knjiga osoba lišenih slobode*) found in all police stations represent potentially an important safeguard, as well as being a means of facilitating internal and external supervision mechanisms. They contain separate sections relating to the rights of detained persons to notify someone of their deprivation of liberty and to contact a lawyer. Another section concerns whether the detained person wants to request a doctor. All detained persons should have these sections read out to them and they should sign the relevant parts of the custody register, indicating whether or not they wish to avail themselves of the rights concerned.

However, in the Republika Srpska, not only did most detained persons state that the relevant sections were never read out to them but the CPT's delegation observed that a considerable number of entries in the custody records were not properly filled out and the sections referring to the rights of detained persons were often blank; such a state of affairs was observed, for example, in the registers at Banja Luka Central and especially at Istočno Sarajevo Police Stations. At the Special Prosecutor's Office for Organised Crime, there was apparently no register maintained on persons detained in the facility, and the documentation viewed by the delegation contained several evident inaccuracies relating to the periods of deprivation of liberty of such persons.

Further, the delegation noted that the registers often showed persons being detained for 23 hours and 55 minutes in the police station prior to being transferred to the prosecutor's office, without accounting for the fact that the actual apprehension apparently took place, in some instances, several hours prior to the arrival of the detained person at the police station. For example, at Istočno Sarajevo Police Station one person was apparently apprehended in the act of committing a burglary at 1.30 a.m. but his deprivation of liberty was only recorded as being at 5.10 a.m., the moment when he was registered in the police station.

**The CPT recommends once again that the authorities take the necessary steps to ensure that the custody registers are scrupulously filled out and that a register is maintained for every detention facility where persons are deprived of their liberty. Further, it wishes to receive confirmation that the 24 hour period of deprivation of liberty by the police runs from the moment the person concerned is apprehended and not from the time he arrives at a police station.**

#### **4. Material conditions**

22. The CPT considers it necessary to recall that police establishments should meet certain elementary material requirements, even if the detention period is relatively short (i.e. as a rule less than 24 hours).

All police holding facilities should be clean, of a reasonable size for the number of persons they are used to accommodate, and have adequate lighting (i.e. sufficient to read by, sleeping periods excluded) and ventilation; preferably, such facilities should enjoy natural light. Further, holding facilities should be equipped with a means of rest (e.g. a fixed chair or bench) and persons obliged to stay overnight in custody should be provided with a clean mattress and clean blankets.

Persons in custody should be allowed to comply, when necessary, with the needs of nature in clean and decent conditions, and be offered adequate washing facilities. They should have ready access to drinking water and be given food at appropriate times, including at least one full meal (i.e. something more substantial than a sandwich) every day. Persons held for 24 hours or more should be provided with appropriate personal hygiene items and, as far as possible, be offered outdoor exercise every day.

23. Regrettably, too many of the police stations visited did not comply with these minimum requirements. Banja Luka Central Police Station does not contain any holding cells whatsoever. Persons apprehended by the police are detained in the offices of the crime inspectors for periods lasting up to 24 hours, usually handcuffed to various objects (cupboard, chair, radiator). No budget exists to provide detained persons with something to eat and persons met by the delegation stated that they had been offered no food while detained in the police station; in some instances, the families of the detained person had been allowed to bring them something to eat.

In Istočno Sarajevo Police Station, one of the two cells was very small (4.5m<sup>2</sup>) and should not be used for holding persons overnight. Neither of the two cells was equipped with a suitable means of rest for overnight stays nor were detained persons provided with a blanket at night; persons met by the delegation stated that they had been handcuffed to a chair or a radiator even when placed in the cells at night and that they had not been offered anything to eat.

The CPT's delegation also found that the conditions in the holding cells in Konjic and Mostar Police Stations had not improved since the previous visit in 2007<sup>7</sup>. In Mostar Police Station, the four operational basement cells were still very small (4.5 m<sup>2</sup>); cells of this size are not suitable for overnight detention. Further, they had little access to natural light, poor artificial lighting, inadequate ventilation, and were dirty and malodorous. Detainees held overnight were not provided with a mattress and had to lie on a raised wooden platform or metal bench. The cells also had no call bells and staff were not present in the detention area but rather carried out observation rounds every 30 minutes or so.

On a positive note, the two cells in Foča Police Station, which had been the subject of an immediate observation at the time of the 2007 visit, had been replaced by a single cell (12m<sup>2</sup>). The cell was suitably furnished and had access to natural light and adequate ventilation. The conditions of detention in the five cells of the Special Prosecutor for Organised Crime in Banja Luka and in the single cell of the Istočno Sarajevo District Prosecutor were also of a high standard. The four cells in the Federal Directorate of Police in Sarajevo, the six double-occupancy cells in Novo Sarajevo Police Station and the two cells in Bosanska Gradiška Police Station also provided appropriate detention conditions for up to 24 hours.

**24. The CPT recommends that the necessary steps be taken to ensure that offices are not used as ad hoc detention facilities and that detained persons are not handcuffed to radiators or items of furniture. Detained persons should be accommodated in rooms/cells designed specifically for that purpose, offering appropriate security conditions. Immediate steps should be taken to put in place proper arrangements (including a food budget) for the detention of persons overnight in Banja Luka Central Police Station.**

**Further, the CPT reiterates its recommendation that the authorities pursue their efforts to ensure that all police stations in which persons may be detained for up to 24 hours meet the basic standards enumerated by the Committee in paragraph 22 above. In addition, arrangements should be made to ensure that all persons detained in police stations are offered food and water at appropriate times** (individual police officers should not have to pay for the food themselves).

**Conditions of detention in Istočno Sarajevo, Konjic and Mostar Police Stations should be reviewed, in order to remedy the shortcomings referred to in paragraph 23 above.**

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<sup>7</sup> See CPT/Inf (2009) 25, paragraph 23.

## **B. Prison establishments**

### **1. Preliminary remarks**

25. In 2011, the CPT's delegation visited Banja Luka, Doboj and Foča Prisons, carried out a targeted visit to Zenica Prison, and examined the situation in the State pre-trial detention facility for the first time. It also visited Istočno Sarajevo, Mostar and Sarajevo Prisons, where it interviewed prisoners on remand.

26. **Banja Luka Prison**, located just outside the town, was opened in 1966. The establishment includes a three-storey accommodation unit for sentenced prisoners which, at the time of the visit, was in the process of having an additional floor added to it. Remand prisoners are kept on the two upper floors of a separate building which also houses, on the ground floor, the heightened supervision unit and disciplinary cells. The grounds also contain administrative buildings and workshops. The prison was only holding 150 sentenced prisoners<sup>8</sup> due to the ongoing construction work; once completed, the capacity would rise to 300. On the other hand, the pre-trial section of the prison was operating at full capacity with 75 male and four female inmates being held at the time of the visit. There was also a small 12-person open unit on the prison farm nearby.

**Doboj Prison**, located in the centre of the town next to the courts, was originally built in 1958 as a remand prison and for inmates convicted of minor offences, but prisoners convicted of more serious offences were often held in the prison in the period after 1995. However, following the prison riot in April 2007<sup>9</sup>, the establishment now only accepts prisoners with sentences of up to three years. The prison consists of a two-storey rectangular building with a courtyard in the middle; sentenced prisoners are accommodated in multi-occupancy rooms, primarily on the ground floor and inmates on remand are held in 18 cells on the upper floor. At the time of the visit, the establishment was holding 101 sentenced prisoners and 33 inmates on remand, for an official capacity of 122 and 63. There was also a small 12-person open unit outside the town.

**Foča Prison**<sup>10</sup>, located on the banks of the river Drina on the outskirts of the town, remains the only high-security prison in the Republika Srpska; at the time of the visit, it was holding 330 inmates (41 of whom were accommodated in the semi-open economic unit some four kilometres from the prison) for an official capacity of 350 prisoners. The delegation focused its attention on the accommodation *kolektivs* in Building II, where the vast majority of the prisoners were located as well as on the heightened supervision and medical units. It also visited the newly constructed special regime facility which should be opened before the end of 2011.

**Zenica Prison**<sup>11</sup> continued to be the only high-security prison in the Federation; at the time of the visit, it was holding 763 inmates for an official capacity of 702 prisoners. In addition, the forensic psychiatric annexe (FPA) outside the main perimeter wall was accommodating 20 patients. The CPT's delegation targeted in particular Pavilions II and IV as well as the FPA (see paragraphs 110 to 112 below).

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<sup>8</sup> Officially the prison was holding 211 prisoners but this included those prisoners who had been transferred to other prisons during the renovation work as well as absconded prisoners dating back 20 years.

<sup>9</sup> See CPT/Inf (2009) 25, paragraphs 40 to 43.

<sup>10</sup> See CPT/Inf (2009) 25, paragraph 25 for a description of the prison.

<sup>11</sup> See CPT/ Inf (2004) 40, paragraphs 41 and 64 to 68 for a description of the prison.

Located in the centre of the city, **Sarajevo Remand Prison**<sup>12</sup> remained overcrowded, with 119 inmates for an official capacity of 110. The remand section of **Istočno Sarajevo Prison**, consisting of nine cells, was accommodating 25 male inmates for an overall capacity of 36. Two women on remand were being held in the separate female unit. At **Mostar Prison**, the remand section was holding 35 male inmates for a capacity of 30. The **State-level pre-trial detention facility** was built in 2005 from pre-fabricated containers and has an official life-span of 10 years. At the time of the visit, the facility was operating at full capacity, accommodating 20 inmates in single-occupancy cells.

27. In the report on the 2007 visit, the CPT highlighted a number of serious concerns as regards the situation in the prisons visited, notably ill-treatment of inmates by prison officers; seemingly unchecked inter-prisoner violence; poor material conditions; the absence of a purposeful regime; the lack of managerial capacity; inadequate provision of health care and the lack of external supervision. Further, there appeared to be no strategic approach towards mapping out a coherent and comprehensive policy for reforming the prison system of Bosnia and Herzegovina, to enable it to cope with the expected increase in the number of inmates and the more challenging profile of prisoners (i.e. persons sentenced for war crimes or linked to organised crime groups). The findings of the 2011 visit demonstrate that several of these concerns remained unresolved. However, on a positive note, the CPT's delegation found an improvement in the situation in relation to the treatment of prisoners by staff and as regards the problem of inter-prisoner violence previously found at Zenica Prison.

28. At the time of the 2011 visit, each Entity continued to operate its prisons autonomously while the State Ministry of Justice was responsible for the pre-trial detention unit of the State Court and for overseeing the project to construct a State Prison. Attempts to put in place a more harmonised and effective approach towards prison issues through the State-sponsored Justice Sector Reform Strategy (JSRS) have not yet achieved the expected results<sup>13</sup>.

Nevertheless, certain important developments have taken place, notably in the Republika Srpska with the adoption in 2010 of a revised and updated Law on Execution of Criminal Sanctions (which is now harmonised with the State-level law) and new laws on juvenile justice and on maximum-security imprisonment.

By contrast, the Federation of Bosnia and Herzegovina has still not revised and updated its 1998 Law on Execution of Criminal Sanctions in order to harmonise it with the 2004 State Law. **The CPT would like to be informed of the timetable for the adoption by the Federation of Bosnia and Herzegovina of a new law on execution of criminal sanctions.**

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<sup>12</sup> See CPT/Inf (2004) 40, paragraph 40 and CPT/Inf (2009) 25, paragraph 25.

<sup>13</sup> See 2010 Report on the Justice Sector Reform Strategy (Strategic Pillar 2 – Execution of Criminal Sanctions) of 22 December 2010 by the State Ministry of Justice.

## 2. Ill-treatment

29. The vast majority of prisoners interviewed by the CPT's delegation in the course of the 2011 made no allegations of ill-treatment by prison staff. In particular, the CPT's delegation noted the considerable progress made at Zenica Prison since the 2007 visit to put an end to ill-treatment by staff. However, in certain prisons visited, the delegation did receive allegations of physical ill-treatment of inmates by some members of the prison staff. The alleged ill-treatment consisted mostly of punches, kicks and blows with batons to the body.

At Banja Luka Prison, detailed allegations were received concerning sentenced prisoners who had been apprehended by the authorities after absconding from the prison; upon being returned to prison, these persons were allegedly subjected to punches, kicks and blows with batons by prison staff in the visits room of the prison, before being placed in solitary confinement and thereafter in the heightened supervision unit.

Further, at Banja Luka Prison, a few allegations of ill-treatment by prison officers of inmates on remand were also received. In each case, they concerned persons who had broken the house rules (talking to an inmate in another cell, possession of a mobile phone). One particular case of alleged ill-treatment took place at the beginning of March 2011 after an inmate had been found in possession of a mobile phone. Inmates in at least eleven different cells in the remand section and in the heightened supervision unit stated that they had heard screams coming from the direction of the solitary confinement cell at the time that the inmate in question was placed there. From the relevant records, it appears that a health worker did not visit this prisoner during his time in the solitary confinement cell despite being required to do so by Law<sup>14</sup>.

30. To sum up, fewer allegations of ill-treatment of prisoners by staff were received in the course of the 2011 visit, as compared to previous visits. Nevertheless, the CPT wishes to recall that the authorities must institute measures to ensure that all prison officers and managers understand why ill-treatment is unacceptable and unprofessional, that they will undertake a proper investigation into allegations of ill-treatment and that, furthermore, ill-treatment will result in severe legal sanctions.

**The CPT recommends that the relevant authorities deliver a clear message to all custodial staff that the ill-treatment of prisoners is not acceptable. Particular attention should be paid to the situation in Banja Luka Prison. Further, all necessary steps should be taken to ensure that any ill-treatment is the subject of severe penalties.**

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<sup>14</sup> See Article 134, paragraph 3 of the 2010 Law on execution of criminal sanctions .

31. As regards inter-prisoner intimidation/violence, the CPT has taken note of the considerable measures undertaken at Zenica Prison to reduce the possibility of incidents of violence through the establishment of two high-security and protection units (Pavilions IV and VI), and through the partitioning of the outdoor exercise yard into several smaller sections. Nevertheless, the multiple dormitories within the large *kolektivs* in Pavilion I, which together accommodated 343 inmates at the time of the visit, combined with the inadequate staffing levels, still complicated efforts to combat inter-prisoner violence.

The CPT's delegation received a number of allegations of inter-prisoner intimidation in Foča Prison. As is the case in Zenica Prison, the layout of the accommodation areas as described in the report on the 2007 report, with *kolektivs* encompassing several dormitories, prevents adequate surveillance and control by staff. At night, the doors of the dormitories remain unlocked with inmates free to move around the *kolektiv* (for example, *kolektivs* 18, 20 and 22 were each accommodating more than 30 prisoners in four dormitories at the time of the visit).

The opening of the special regime unit in Foča Prison may alleviate the situation by enabling troublesome prisoners to be held in alternative accommodation. However, there will still need to be more rigorous and proactive action on the part of staff to identify both potential perpetrators and vulnerable prisoners at risk of being bullied.

32. The CPT has stressed in the past that the duty of care, owed by the prison authorities to inmates in their charge, includes the responsibility to protect them from other prisoners who might wish to cause them harm. In particular, prison staff must be alert to signs of trouble and be both resolved and properly trained to intervene. Such a capacity to intervene will of course depend, inter alia, on an adequate staff/prisoner ratio (see also paragraph 46 below). In addition, the prison system as a whole must develop the capacity to ensure that potentially incompatible categories of prisoners are not accommodated together.

Further, prison staff are unlikely to be able to protect prisoners if they fear for their own safety or if they lack effective management support. Tackling effectively the problems posed by inter-prisoner violence entails the availability of sufficient numbers of staff and ensuring that staff receive the requisite initial and advanced training throughout their careers. The implementation of an individualised risk and needs assessment of prisoners is also required.

**The CPT recommends that the relevant authorities devise a coherent strategy to combat inter-prisoner violence; part of this strategy will have to include investing far more resources in recruiting additional staff and promoting their training.**



33. The credibility of the prohibition of torture and other forms of ill-treatment is undermined each time officials responsible for such offences are not held to account for their actions. For this reason it is essential that whenever there are grounds to believe that an inmate may have been ill-treated either within the prison or by law enforcement officials prior to being remanded to prison, this be brought to the attention of the Prosecutor's Office. In this respect, a fundamental safeguard against ill-treatment and impunity is the requirement for a thorough medical examination to be conducted on prisoners following a violent incident or use of force within an establishment as well as on all newly admitted inmates.

In the light of the information gathered in the course of the 2011 visit, it appeared that medical staff in the prisons visited were not documenting the injuries of prisoners in detail or with the necessary precision, nor were they stating whether or not injuries observed were consistent with any allegations of ill-treatment being made by the prisoner. Specific recommendations on the recording of injuries will be made later in the report (see paragraph 65 below).

**The Committee recommends that existing procedures be reviewed in all prisons in Bosnia and Herzegovina in order to ensure that whenever injuries are recorded by a doctor which are consistent with allegations of ill-treatment made by a prisoner (or which, even in the absence of allegations, are indicative of ill-treatment), the record is systematically brought to the attention of the relevant prosecutor, regardless of the wishes of the person concerned.**

**In addition, the Committee recommends that when allegations of ill-treatment by prison staff are the subject of an investigation, the staff members concerned be transferred to duties not requiring day-to-day contact with prisoners, pending the results of the investigation.**

### **3. High-security units and heightened supervision (with intensive treatment)**

#### **a. high-security units**

34. In the course of the visit, the CPT's delegation had an opportunity to visit the new high-security unit at Zenica Prison as well as the soon-to-be-opened special regime unit at Foča Prison.

35. Inmates are placed in the new high-security Pavilion IV at Zenica Prison by the Internal Commission (made up of the assistant directors for security and treatment, the chief prison officer, a psychologist and a criminologist) on the basis of an internal prison order. The safeguards in place are totally inadequate; there is still no hearing, no time limit for the placement and no appeal procedure. In practice, most placements last three to four months. However, the unit had only been operational since October 2010 and, at the time of the visit, at least one inmate had been held there for six months. Further, the monthly assessment of inmates in the unit is made by security and treatment staff without any consultation with prisoners.

The CPT has already stated that there must be a clear legal basis for the placement of a prisoner in a high-security unit, which should be accompanied by appropriate safeguards, in particular:

- a prisoner in respect of whom a placement in a high-security department is envisaged or in respect of whom such placement is extended should be given an opportunity to express his/her views on the matter, after having been informed in writing of the reasons for the measure (it being understood that there might be reasonable justification for withholding from the prisoner specific details related to security);
- the placement of a prisoner in a high-security department should be fully reviewed at regular intervals (preferably at least on a quarterly basis);
- prisoners should have the right to appeal to an independent authority against the imposition or extension of a placement in a high-security department.

**The CPT reiterates its recommendation that the authorities of the Federation of Bosnia and Herzegovina take the necessary steps to provide a clear legal basis, with appropriate safeguards and a defined assessment process, for the placement of prisoners in the high-security units at Zenica Prison, in the light of the above remarks.**

36. As regards the special regime unit in Foča Prison, the Special Regime Law<sup>15</sup> provides for prisoners to be placed in the unit on a decision by the Minister of Justice following a proposal from a prison director. Placement in the unit is initially for six months, and prior to the completion of the initial placement period, the prison director should submit a proposal to the Minister of Justice recommending either that the measure be extended or that the prisoner be reintegrated into the general population (Article 6). The Law provides no limit as to the amount of time a person may be held in the special regime unit, nor does it contain any provisions relating to the possibility to appeal placement in the unit to another authority.

**The CPT recommends that the Republika Srpska authorities take the necessary steps to ensure that the safeguards described in paragraph 35 apply to the placement of prisoners in the special regime unit in Foča Prison.**

37. At *Zenica Prison*, Pavilion IV (formerly used to accommodate forensic psychiatric patients) was entirely refurbished in 2010 for the purpose of acting as a high-security unit accommodating prisoners deemed to be disruptive and troublesome. The unit contained 28 double-occupancy cells on two floors and was accommodating 38 prisoners on the day of the visit. The material conditions of detention in the unit were generally of a good standard; cells measured some 15 m<sup>2</sup> including a sanitary annexe (with toilet, washbasin and shower), had good access to natural light and were well ventilated. Each cell was furnished with one set of bunk beds, personal lockers, a table and chairs, and a call bell system.

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<sup>15</sup> The Law on Special Regime for the Execution of Criminal Sanctions in Prison was adopted by the Republika Srpska National Assembly on 16 March 2010.

The regime within the unit depended on a prisoner's categorisation<sup>16</sup>. The eight Category A prisoners were allowed seven hours of out-of-cell time every day which could be spent in a large outdoor exercise yard (up to three hours), a small fitness room with rudimentary equipment (two hours) and a day room (two hours). Category A prisoners were also allowed access to television within their cells. The remaining 30 Category B or C prisoners were permitted four to five hours of out-of-cell time of which they could spend two hours in the outdoor exercise yard. Further, all categories of prisoner could associate together during their out-of-cell time. However, there was no specific sentence plan or targets for prisoners while in the unit nor did there appear to be any counselling sessions for prisoners to assist them reintegrate into the general population; also, no organised activities (work, sport, etc.) were offered.

38. The *Foča Prison* special regime unit, for prisoners deemed to be troublesome and disruptive, is a stand-alone facility situated behind the main accommodation building and is ringed by its own security wall. The two-storey unit contains 38 single-occupancy cells (10m<sup>2</sup>), each with a built-in shower and toilet, suitably furnished and with adequate access to natural light. On the ground floor, it was intended to have three prayer rooms, a room for recreational activities (table tennis) and a work activity room, as well as a staff room. On the upper floor, there were rooms for the senior management, educators and medical staff. Three of the exercise yards were intended as individual walking spaces (about 30m by 4m) and a fourth, larger yard for group association which would contain some sports installations. As regards the regime, the CPT's delegation was informed that it would be similar to the one in operation for prisoners on heightened supervision (i.e. access to two hours of outdoor exercise every day and limited, if any, activities - see paragraph 42).

39. The CPT has stressed in previous reports that prisoners who present a particularly high-security risk should, within the confines of their detention units, enjoy a relatively relaxed regime by way of compensation for their severe custodial situation. In particular, they should be able to meet their fellow prisoners in the unit and be granted a good deal of choice about activities. Special efforts should be made to develop a good internal atmosphere within high-security units. The aim should be to build positive relations between staff and prisoners. This is in the interests not only of the humane treatment of the unit's occupants but also of the maintenance of effective control and security and of staff safety.

The existence of a satisfactory programme of activities is just as important - if not more so - in a high-security unit as on normal location. It can do much to counter the deleterious effects upon a prisoner's personality of living in the bubble-like atmosphere of such a unit. The activities provided should be as diverse as possible (education, sport, work of vocational value, etc.). As regards, in particular, work activities, it is clear that security considerations may preclude many types of work which are found on normal prison location. Nevertheless, this should not mean that only work of a tedious nature be provided for prisoners.

As described above, the high-security Pavilion IV unit at Zenica Prison permitted some degree of association and out-of-cell time. However, prisoners were not offered a diverse range of activities nor provided with any structured counselling to assist them in addressing the underlying causes which led to their placement in the unit. The majority of inmates in the Pavilion IV were confined to their cells for 19 hours a day.

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<sup>16</sup> All prisoners were classified in one of three categories (A, B and C). Initially, prisoners were placed in category B. Every three months the categories were reviewed and prisoners could progress to Category A or regress to Category C, depending on their behaviour.

As regards the special regime unit in Foča Prison, from the information provided to the CPT's delegation, it would appear that prisoners held in this unit will not be offered a purposeful regime. Article 11, paragraph 9, of the Law regulating the unit states that work can be provided under rigid control; however, the unit only contains one small association room and one small room for work-related activities. Further, the fact that the regime may be similar to that offered in the heightened supervision units is cause for concern.

**The Committee recommends that steps be taken to provide prisoners placed in high-security units with a purposeful regime, which includes a diverse range of activities, in the light of the above remarks.**

- b. heightened supervision (with intensive treatment)

40. In both Banja Luka and Foča Prisons, the CPT's delegation also visited the heightened supervision departments in which prisoners could be initially placed for three months in accordance with Article 141 of the Republika Srpska Law on Execution of Criminal Sanctions. Placement in these departments is decided by the director of the establishment upon the proposal of the security and treatment departments. The measure is intended for prisoners who are a threat to the good order of the prison (i.e. risk of escape or violent behaviour towards other inmates or property) or as a supplementary measure following the enforcement of a solitary confinement sanction if the reasons for the confinement are considered to persist. Prisoners with whom the delegation met stated that they had received no written explanation for their placement in the heightened supervision detention block. Further, there is no appeal against the order of the director to place a prisoner in heightened supervision or regarding any extension.

**The CPT recommends that the relevant authorities in the Republika Srpska take the necessary steps to ensure that a prisoner is informed in writing of the reasons for placement and of any extension of that placement in a heightened supervision unit, and is guaranteed the right of appeal to an independent authority.**

41. The heightened supervision unit in *Banja Luka Prison* (Block C) was accommodating nine sentenced prisoners in six cells. The cells were of sufficient size, suitably furnished (including a television), had access to natural light and ventilation was adequate. However, prisoners were offered no activities and were confined to their cells for up to 22 hours every day; in principle, they had the possibility of two hours of outdoor exercise though some prisoners stated that they were offered only one hour every day. There was no sentence plan in place or any intensive counselling to assist prisoners to reintegrate into the general prison population. Contacts with other prisoners were forbidden and a prisoner caught communicating with an inmate from another cell would be disciplined with a number of days in solitary confinement.

One prisoner who had been participating in activities and who had never had a disciplinary punishment during his four years of imprisonment was transferred to the heightened supervision unit in July 2009. Although he had heard orally that the reason for the placement was "risk of escape estimated as high", he had never received any written decision and since his transfer he had been held in conditions akin to solitary confinement. He complained that the isolation, prohibition of association with other inmates and the uncertainty about the duration of the measure had had a negative impact on his mental state.

42. The C Block heightened supervision unit in *Foča Prison* consisted of ten cells on the ground floor of Building I, and was holding 14 prisoners at the time of the visit. Some of the prisoners in the unit were placed there for their own protection (see paragraph 45 below). The cells were of an adequate size and suitably furnished but access to natural light was limited and the artificial lighting was not switched on during the day.

A further three cells, adjacent to the solitary confinement wing in Building II, were also used for holding prisoners on heightened supervision; these cells were in a state of dilapidation and many prisoners who had been placed in them complained about the damp and lack of hygiene.

Further, as in Banja Luka Prison, the major deficiency related to the lack of any purposeful regime for prisoners who, other than the possibility of two hours walking in a concrete alleyway, were confined to their cells for 22 hours a day. There was no sentence plan and the discussions with educators were not focused on counselling the prisoners to assist them reintegrate into the general population but about whether the inmates had any requests or problems.

43. A number of prisoners met by the delegation had spent a prolonged period in heightened supervision (i.e. more than six months). In addition to an absence of activities, prisoners on heightened supervision were not allowed to associate with other inmates (apart from their cellmate) and their contact with the outside world was restricted to one visit of one hour per month and a weekly telephone call of 10 minutes, as well as written correspondence. Despite the name of these units containing the words “with intensive treatment”, prisoners placed in them did not in fact benefit from additional support or counselling.

44. In the same way as for prisoners in high-security units, **the CPT recommends that steps be taken to provide prisoners placed in heightened supervision units with a purposeful regime, which includes a diverse range of activities. A revised sentence plan should be drawn up together with the prisoner, setting out the objectives and goals to be achieved in order to successfully reintegrate into the general population. Any review of the prisoner’s placement should include a re-evaluation of the plan.**

**Every effort should be made to enable prisoners to associate with other inmates. For those inmates accommodated in a cell on their own, opportunities for them to associate with other prisoners during the day should be put in place.**

**The CPT recommends that, at Foča Prison, the cells on the ground floor of Building II used for heightened supervision be renovated as a matter of priority and that all cells have sufficient light to enable prisoners to read.**

**The Committee would like to know whether the heightened supervision unit at Foča Prison will continue to operate after the opening of the high-security unit and, if so, to what extent its purpose and regime will differ from that unit.**

45. The heightened supervision units in both Banja Luka and Foča Prisons also accommodated prisoners who had been placed there for their own protection. Such placements could last longer than a few months; at the time of the visit, one person had been on protection for nine months. While these prisoners retained their privileges and previous categorisation, they were to all intents and purposes placed on a restricted regime and were confined to their cells for 22 hours a day, with no access to any activities.

The CPT recognises that a primary duty of the prison authorities is to prevent harm coming to the prisoners under their care, and that the need to take protective measures in favour of certain inmates may inevitably have negative repercussions on the activities they can be offered. However, the prisoners concerned should not be left to languish in their cells for 22 hours a day.

For those prisoners placed on protection for more than a few weeks, additional measures should be taken in order to provide them with appropriate conditions and treatment; access to activities, educational courses and sport should be feasible. Moreover, there needs to be a more proactive approach by the prison health-care service towards prisoners on protection, particularly as regards psychological and psychiatric care, especially as some of them might spend extended periods in the heightened supervision department. There should also be an individual assessment of their needs at regular intervals and, where appropriate, transfer to another prison should be considered.

**The CPT recommends that the relevant authorities take appropriate steps to provide prisoners placed on protection for more than a short period with purposeful activities and proper support from the health-care service.**

#### 4. Staffing

46. In its previous visit reports, the CPT highlighted the importance of each prison having sufficient numbers of well-trained prison officers deployed in an effective and efficient manner. The CPT recommended that staffing levels be reviewed, with a view to ensuring that the number of prison officers employed is sufficient to guarantee staff safety and the physical and mental integrity of inmates.

The staffing complement at *Banja Luka Prison* consisted of four shifts of 25 prison officers working 12 hours at a time for a population of 230 inmates (including 80 on remand) but which will increase to 380 once the renovations are completed. There were also 15 treatment staff, including eight educators, working with sentenced prisoners. Staffing levels at Dobož Prison were sufficient, with 66 prison officers and eight treatment staff, given the number of prisoners in the establishment.

However, at *Foča Prison*, the number of prison staff<sup>17</sup> on duty at any one time was insufficient to enable proper control, surveillance and interaction with prisoners. For example, on the day of the visit, there were eight officers on duty within the prison and another nine assigned to various activities and gates. Buildings II, in which nearly 200 prisoners were accommodated, was staffed by only two prisoner officers who had to cover seven *kolektivs* on four floors.

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<sup>17</sup> The total number of prison officers employed at the prison was 98.

As regards *Zenica Prison*, the CPT noted that the complement of prison officers had been increased by 70 to 252. Nevertheless, the numbers are still not adequate when taking into account both the size of the prison population as well as its composition. Further, there is a need to reinforce the treatment department as 14 educators and one psychologist for more than 750 inmates is not sufficient to put in place meaningful programmes addressing issues of rehabilitation and reintegration.

**The CPT reiterates its recommendation that the relevant authorities review the current staffing levels throughout the prison system, starting with Foča and Zenica Prisons and, subsequently, inform the Committee about the concrete action taken. The number of prison officers employed must be sufficient to guarantee staff safety and the physical and mental integrity of inmates.**

47. Along with increasing the number of staff, it is essential that a greater emphasis be placed upon ensuring that staff are provided with the appropriate knowledge and skills to carry out their tasks along the lines indicated in paragraph 46 above. This requires not only an initial training course for all staff but also regular in-service training to allow both updated and new skills to be learned. Training should be viewed as a life-long process and, in addition to being oriented to meet the demands of the new legislation, must be practical and problem-based, not merely theoretical. The training seminars organised to date in the context of various Council of Europe programmes go some way to addressing this question but cannot replace the development of a regular in-service training programme to meet the needs of the evolving prison systems in the country.

**The CPT reiterates its recommendation that the authorities put in place a comprehensive human resources policy for prison staff in both Entities, which comprises initial training, regular refresher and specialist courses and ongoing support.**

48. The development of a professional management approach within the prison system has still not been adequately addressed by the authorities. At present, there is no career development, no job security and no planning among the senior prison managers. Prison directors are not appointed to their posts solely on the basis of their competence, nor are prison directors provided with the necessary management training to ensure that they are able to run their prisons effectively and plan for the future. Such a state of affairs undermines any attempt to reform the prison system. Reference should be made in this context to the provisions of the European Prison Rules; they emphasise the importance of having a director in each prison who has been carefully selected for his or her ability to carry out “what is one of the most complex tasks in public service”, which includes bringing a sense of purpose, leadership and vision to the post.<sup>18</sup>

**The CPT recommends that the relevant authorities introduce a professional management career path within the prison system and that directors and senior managers be provided with the necessary management training to fulfil their tasks competently.**

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<sup>18</sup> See Rule 84 of the European Prison Rules (2006) and the commentary on this rule.

## 5. Material conditions

49. The pre-trial section of *Banja Luka Prison* was in an adequate state of repair; each cell was suitably furnished (beds, personal lockers, table, chairs and a television), had good access to natural light and ventilation, and artificial lighting was sufficient. Moreover, the in-cell sanitary facilities were fully partitioned. Most of the cells adhered to the legal requirement of 4m<sup>2</sup> of living space per inmate; however, **in a few of the cells this minimum standard was not met** (for example, in cell 137 there were seven inmates in 24m<sup>2</sup>). **Some complaints were received about a lack of cleaning products to maintain hygiene in the cell.**

As regards the building accommodating sentenced prisoners, from the observations of the delegation, it was evident that the new third floor will offer appropriate accommodation to prisoners along the lines of those in existence on the second floor (i.e. multi-occupancy rooms for six to eight prisoners). At the time of the visit, the rooms and common areas on the ground and first floors were somewhat dilapidated and the ventilation was not good but it was intended to renovate these floors in due time. **The CPT urges the authorities to undertake the necessary renovations as soon as possible.**

50. *Doboj Prison* had been renovated following the disturbance in April 2007. The material conditions in the multi-occupancy dormitories for sentenced prisoners were generally adequate. However, the infrastructure of the prison did not appear to be equipped to accommodate more than 100 sentenced prisoners in decent conditions; above that number, the dormitories would become overcrowded and access to the limited common facilities restricted. **The CPT invites the relevant authorities to reduce the official capacity of the prison accordingly.**

The pre-trial section of the prison consisted of 18 cells, each of which contained a fully partitioned sanitary facility and was suitably furnished. Access to natural light and ventilation were adequate, and artificial lighting sufficient. Several cells had been designated as “non-smoking” which was appreciated by the occupants. The cells visited measured approximately 12m<sup>2</sup> and each one was accommodating three inmates.

51. The material conditions in *Foča Prison* were similar to those described in the CPT’s report on the 2007 visit<sup>19</sup>; the *kolektivs* visited by the delegation in both Buildings I and II were in a reasonable state of repair. However, the delegation noted that **in certain dormitories of several of the *kolektivs*, there was not a minimum of 4m<sup>2</sup> of living space per prisoner, as provided for by law.**

52. Each of the 20 single-occupancy cells (12m<sup>2</sup>) in the *State-level pre-trial detention facility* were suitable equipped (bed, table, chair, shelving unit and television set) and included a fully partitioned toilet and shower.

The remand section of *Istočno Sarajevo Prison* consisted of nine cells, each of which was spacious, with large windows providing good access to natural light, suitably furnished (beds, shelving units, table, chairs, refrigerator, kettle and television) and included a fully partitioned toilet and shower.

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<sup>19</sup> See CPT/Inf (2009) 25, paragraph 61.



The material conditions in *Sarajevo Remand Prison* remain essentially the same as those described in the reports on the visits in 2007 and 2009<sup>20</sup>. The CPT was pleased to note that the solitary confinement cells criticised in previous reports have been completely renovated and now provide good conditions (access to natural light, adequate ventilation, in-cell sanitation, appropriate table secured to the floor and a chair).

## 6. Regime

53. The CPT recalls that the aim should be to ensure that all prisoners, including those on remand, spend a reasonable part of the day (i.e. eight hours or more) outside their cells, engaged in purposeful activities of a varied nature: work, preferably with vocational value; education; sport; recreation/association. A regime which provides for varied activities is essential for the welfare of prisoners during their incarceration as well as being a vital component in the preparation for release.

54. The regime for remand prisoners in establishments visited in both Entities remained impoverished.

At *Banja Luka Prison*, inmates were offered neither work nor recreation, and it was only because they were accommodated in multi-occupancy cells that inmates were not fully deprived of human contact. Inmates were offered two hours of outdoor exercise every day in accordance with the law, but this took place only together with the other persons sharing the cell; communication between inmates in different cells was considered a disciplinary offence. For the remaining 22 hours of the day, inmates were confined to their cells, where they had access to television, books, newspapers and magazines. They were not permitted to keep a pen or pencil in their cell (for letters, notes on their cases, crossword puzzles, etc.) but had to ask a prison officer whenever they wanted to write a letter. **No justifiable reason could be provided for this restriction.**

A similar situation prevailed in the remand sections of *Doboj and Istočno Sarajevo Prisons*. Nevertheless, during their two hours of outdoor exercise they could communicate, even associate, with inmates in other cells and, in Doboj Prison they had access to table tennis and to a couple of exercise machines (which needed to be repaired). Further, inmates could keep a pen and paper in their cells.

By contrast, at the *State-level pre-trial detention facility*, which accommodates persons charged with serious offences (in particular war crimes and organised crime), inmates were permitted to spend a large part of the day out of their individual cells (between 9 a.m. to 7.30 p.m.) associating with other inmates in the library or in the outside yards, and they had daily access to a well-equipped gym.

However, in none of the pre-trial detention sections of the prisons visited were organised activities offered, despite the fact that inmates could spend up to four years in such sections.

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<sup>20</sup> See CPT/Inf (2010) 10, paragraph 24.

55. The CPT recognises that prison management was apparently constrained in its efforts to provide more out-of-cell time by the requirement of investigative judges to keep separate all inmates associated with the same case, even after the persons concerned had spent several months in remand custody. The CPT must stress that in addition to the regular reviews of the necessity of continuing remand custody, the judicial authorities should also examine the necessity of maintaining any other restrictions they might have put in place.

**The CPT calls upon the relevant authorities to take the necessary steps to improve radically out-of-cell activities for remand prisoners, with a view to meeting the objective referred to in paragraph 53. Appropriate steps should also be taken to ensure that restrictions on prisoners are only applied when this is strictly necessary for the maintenance of good order or the administration of justice, and for the shortest period of time necessary for this purpose.**

56. At the time of the visit, the number of sentenced prisoners at *Banja Luka Prison* who were actually offered full-time work of some sort stood at around 30. Inmates were also engaged, on a part-time basis, in a number of prisoner clubs, notably iconography and painting, and they had access to a fitness gym and outdoor sports activities. However, there were few staff-led activities and no educational courses were being offered at the time of the visit.

There were virtually no organised activities offered to sentenced prisoners in *Doboj Prison*. Other than the 15 prisoners who worked in the canteen, laundry and kitchen, most inmates spent their days doing little except watching television or walking in the yard. The exercise gym, while appreciated, was limited to five prisoners at a time.

In *Foča Prison*, the range of purposeful activities available to prisoners was also very limited and the vast majority of prisoners did not work. No organised sports or recreational activities were offered, although the prisoners themselves organised inter-*kolektiv* games during the afternoon walking period in the large outdoor exercise yard. Access to the weights and exercise room was limited to some 50 Category A prisoners (i.e. inmates who were in the highest of three classification categories). For the majority of prisoners there was no organised activity and, other than the two hours of outdoor exercise every day, they were confined to their *kolektivs* throughout the day.

57. The Republika Srpska 2010 Law on Execution of Criminal Sanctions clearly states that the prisoners should be provided with educational, cultural, sport, entertainment and other activities (notably, work)<sup>21</sup>. Further, the law provides a framework for achieving the rehabilitation and reintegration of a prisoner into society, which is one of the declared aims of imprisonment. However, these legal provisions remain largely aspirational. Despite some efforts being made in Banja Luka Prison, far too many convicted prisoners in the establishments visited, including those sentenced for lengthy terms, are not spending their time in prison productively. A full and purposeful regime should be introduced in all prisons, otherwise imprisonment will only serve to ensure that prisoners at the end of their incarceration are less capable to cope in the outside law-abiding community and even more dependent on the criminal sub-culture.

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<sup>21</sup> The 2006 European Prison Rules (Rules 26 to 28) also promote work, recreation and educational activities.

**The CPT recommends that the Republika Srpska authorities take the necessary measures to ensure that all sentenced prisoners in Banja Luka, Doboј and Foča Prisons are offered activities of a purposeful and diverse nature, in accordance with the basic aims of imprisonment, as provided for by law.**

## **7. Health care**

58. A prison health-care service should be able to provide medical treatment and nursing care, as well as physiotherapy, rehabilitation or any other necessary special facility, in conditions comparable to those enjoyed by patients in the outside community (equivalence of care, while also taking into account the special needs of the prison population). Provisions in terms of medical, nursing and paramedical staff, as well as premises, installations and equipment, should be geared accordingly.

### **a. staff and facilities**

59. At *Banja Luka Prison*, the health-care team consisted of one full-time doctor and two medical technicians. The doctor was present during weekdays between 7 a.m. and 3 p.m. and was on call during weekends, nights and holidays. The medical technicians worked 12-hour shifts from 7 a.m. to 7 p.m., each one working two days and then taking two days off. A dentist visits once or twice a week depending on the needs, a psychiatrist three times a month and a laboratory technician once a week.

From an examination of the files and interviews with prisoners, there appeared to be no problems in accessing health-care services. Each day, a list of prisoners who had requested to see the doctor would be submitted by prison staff. During March 2011, on average, some 30 inmates were examined by the doctor every day; the psychiatrist saw 10 inmates per session and the dentist around eight per visit and 31 consultations were held with outside specialists. However, the nursing/paramedical resources were not sufficient for more than 200 prisoners and will be woefully inadequate when the inmate population rises to close to 400.

The material conditions of the health-care service were small but adequate.

60. At *Foča Prison*, the health-care team consisted of a part-time doctor, who visited the establishment for four hours every weekday, supported by a nurse and two medical technicians. The nurse was present every weekday between 7 a.m. and 3 p.m. and the medical technicians alternated working 12-hour shifts every other day, including weekends. There was also a full-time dentist. A wide range of specialist doctors visited the prison upon request (cardiologist, gastroenterologist, surgeon, orthopaedist, ophthalmologist, dermatologist, etc.). A psychiatrist from the Sokolac Psychiatric Clinic visited the prison once a month.

Access to the health-care service did not appear to be problematic and the delegation received no complaints from inmates. Figures for the previous 16 months showed that the doctor examined, on average, approximately 15 prisoners every weekday. Some 50 consultations were carried out by visiting specialists during March 2011 and referrals to hospital were authorised, if necessary (19 during 2010). Nevertheless, a prison of more than 300 inmates should have a full-time doctor; further, as in Banja Luka the nursing/paramedical services were not sufficient.

61. At *Doboj Prison*, a doctor visited the establishment three times a week<sup>22</sup> and there were two medical technicians who alternated working 12-hour shifts every other day, including weekends. The staffing levels can be considered as adequate for the size of the inmate population at the time of the visit.

As for the health-care team at the *State-level pre-trial detention facility*, it consisted of a full-time doctor and two nurses for 20 inmates. The doctor was experienced and the level of care provided to the inmates was very good, which is not surprising given the resources allocated to this facility. The medical facility was suitably equipped, clean and well ordered.

62. In the light of the above, **the Committee recommends that steps be taken to reinforce health-care staffing levels in order to ensure:**

- **at Banja Luka Prison, the recruitment of at least two qualified nurses;**
- **at Foča Prison, the equivalent of a full-time doctor and of two additional qualified nurses, preferably one of whom should be a qualified mental health nurse.**

63. In the course of the 2011 visit, the CPT's delegation noted that several prisons were having difficulty in recruiting a full-time doctor. Discussions with medical staff in the different prisons visited raised a series of issues which served to hinder the recruitment of qualified doctors. Among the medical profession, working in prison is apparently perceived as a "high stress, minimal benefit" employment as the responsibility is considerable, working hours unlimited, pay not competitive and, above all, there is a perception of being isolated from the rest of the medical profession.

In addressing this state of affairs, the CPT considers that doctors and nurses recruited to work in prison should be provided with specific training for performing health-care duties in such a setting, and that they should have contact with medical staff in other prisons and receive some supervision from more experienced colleagues. It should also be noted that in Bosnia and Herzegovina they are not employed directly by the Ministries of Health and have no links to a hospital in the community, which results in them being isolated from the mainstream of health-care practice. Steps should be taken to develop a coherent health-care service for prisons with best practice from one prison being replicated across the prison service, and prison health care staff being provided with the appropriate training and support, preferably with the involvement of the Ministries of Health.

**The CPT recommends that the relevant authorities take the necessary steps to provide appropriate training and support to health-care staff working in prisons, in the light of the above remarks.**

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<sup>22</sup> The full-time doctor left in early 2010.

- b. medical screening on admission and recording of injuries

64. The CPT has consistently stressed the importance of medical screening of prisoners on admission - especially at establishments which represent points of entry into the prison system. Such screening is indispensable, in particular in the interests of preventing the spread of transmissible diseases, suicide prevention and the timely recording of any injuries.

In most of the prison establishments visited in the course of the 2011 visit, policies were in place to ensure that all newly admitted prisoners were medically screened on the day of, or the day after, their arrival. This is positive. However, the medical consultation did not include a comprehensive physical examination and results were not always fully recorded.

**The CPT recommends that the relevant authorities ensure that every newly arrived prisoner is properly interviewed and physically examined by a medical doctor during the initial medical consultation, and the results recorded in full.**

65. The CPT remains concerned that injuries observed upon arrival as well as those sustained in prison were often not correctly recorded, or even recorded at all in the prisons visited. For example, at both Istočno Sarajevo, Mostar and Sarajevo Remand Prisons, the notes in the medical files were extremely sparse if they existed at all.

In this respect, the Committee recalls that the record drawn up following the medical examination of a prisoner should contain:

- i) an account of statements made by the person concerned which are relevant to the medical examination (including his description of his state of health and any allegations of ill-treatment),
- ii) an account of objective medical findings based on a thorough examination, and
- iii) the doctor's conclusions in the light of i) and ii).

Further, the results of the medical examination referred to above should be made available to the prisoner concerned. In this respect, the permission of a judge should not have to be obtained for a prisoner to receive a copy of his or her medical file, as is the case at present for remand prisoners.

**The CPT calls upon the relevant authorities to take steps to ensure that the practice in all prisons is brought into line with the above considerations.**

c. medical confidentiality

66. Regrettably, in all the prisons visited, with the exception of the State pre-trial detention facility, prison officers were, in general, present during medical examinations.

While special security measures may be required during the medical examination of a prisoner when health care staff perceive a threat in a particular case, there can be no justification for prison officers being *systematically* present during such examinations; their presence is detrimental for the establishment of trust and of a proper doctor - patient relationship and is usually unnecessary from a security standpoint. Moreover, the presence of security staff may well deter prisoners from providing accounts of the origins of any injuries they have sustained.

**The CPT recommends that the relevant authorities take steps to ensure that medical confidentiality is fully guaranteed in all prison establishments. This implies that all medical examinations of prisoners should be conducted out of the hearing and - unless the doctor concerned requests otherwise in a particular case - out of the sight of prison officers.**

d. transmissible diseases and drug related issues

67. The CPT's delegation noted that the few inmates diagnosed with a transmissible disease were receiving the necessary treatment in the prisons visited in the Republika Srpska. However, a prison health-care service ought to ensure that educational information about transmissible diseases (in particular hepatitis, AIDS, tuberculosis, epidermatological infections) is regularly circulated, both to prisoners and to prison staff. In none of the prisons visited was information provided to the prisoners or staff on this issue. The Committee also considers that prison staff should be provided with ongoing training on the attitudes to be adopted regarding hepatitis B and C and HIV-positivity, and given appropriate instructions concerning non-discrimination and confidentiality.

**The CPT recommends that the relevant authorities ensure that prison health-care services institute a health information programme in all prisons about transmissible diseases, and provide prison staff with specific training on the issue of transmissible diseases.**

68. The CPT recognises that providing support to persons who have drug-related problems is far from straightforward, particularly in a prison setting. The assistance offered to such persons should be varied; detoxification programmes with substitution programmes for opiate-dependent patients should be combined with genuine psycho-socio and educational programmes. The setting up of a drug-free wing in prisons for certain categories of prisoners, inter alia those having completed treatment programmes prior to or during imprisonment or those that do not take drugs, might also be considered.

Drug misuse was not considered a major concern by the management or health-care services in the prisons visited in the Republika Srpska, and it appeared that an ad hoc approach was taken towards those identified as having a drug-related problem; in none of the prisons visited was there a methadone substitution policy. By contrast, in Zenica Prison and, to a lesser extent, in Sarajevo Prison drug misuse was a recognised problem and methadone substitution programmes were in place.

In the response of the authorities to the report on the 2009 visit<sup>23</sup>, reference was made to the National Strategy of Monitoring of Narcotics, Prevention and Elimination of Drug Abuse in Bosnia and Herzegovina for the period 2009-2013 and to the adoption of various Plans of Action, which should include persons held in prison. However, in the prisons visited, there was no evidence of a comprehensive and coherent drugs policy.

**The CPT reiterates its recommendation that a comprehensive strategy be drawn up for the provision of assistance to prisoners with drug-related problems, as one aspect of a national drugs strategy.**

## **8. Discipline, segregation and restraint**

69. In the Republika Srpska, the new Law on Execution of Criminal Sanctions (LECS) which entered into force on 28 February 2010 envisages three types of disciplinary measure that may be imposed on inmates: a reprimand; deprivation of privileges for a period of one to six months and solitary confinement for up to a maximum of 20 days<sup>24</sup>.

In both Entities, the legislation provides for a hearing of the prisoner. In the Republika Srpska, the disciplinary measure is pronounced by a disciplinary committee composed, in the prisons visited, of the prison legal officer and heads of the Security and Treatment Departments. An inmate can appeal within three days against a sanction imposed to the director of the prison, whose decision is final.

The CPT's delegation found the disciplinary procedures were generally applied in a fair manner in both Banja Luka and Foča Prisons. However, the CPT has strong reservations regarding the fact that the only appeal possible against a disciplinary sanction is to the director of the establishment concerned. **The Committee recommends that the necessary steps be taken to ensure that prisoners have a right of appeal to an independent authority against any disciplinary sanctions imposed.**

70. The CPT has misgivings about the practice observed at Zenica Prison of placing prisoners in a solitary confinement cell in Pavilion II for a lengthy period after an alleged offence pending the outcome of the disciplinary procedure. An internal regulation issued by the director of the prison now required that inmates placed in solitary confinement should be returned to their accommodation unit within seven days, if the disciplinary commission had not dealt with their case within that time period. No such practice was observed in any of the other establishments visited.

In the CPT's view, **resort should be had to immediate isolation of a prisoner only when this is absolutely necessary for the maintenance of good order, safety and security, and it should be for the shortest period of time necessary for this purpose. Further, the isolated prisoner should be seen immediately after confinement by a senior staff member and given an opportunity to present his views on the matter. It is also essential that any resort to solitary confinement is clearly provided for in law. The isolated prisoner should also be visited on a daily basis by a medical doctor or a nurse.**

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<sup>23</sup> See CPT/Inf (2010) 11, pages 21 to 23.

<sup>24</sup> Reduced from 30 days under the 2001 Law.

71. Under the special measures for maintenance of order and security in the Republika Srpska LECS of 2010, a prisoner who “persistently disturbs the order and discipline, and jeopardises the security of the Institution, and poses a serious threat to persons and property in the Institution” may be placed in administrative solitary confinement for a period of two months upon the decision of the director of the prison<sup>25</sup>. The decision may be appealed to the Minister of Justice within three days, whose decision is final. This measure of solitary confinement may be extended for up to a maximum of 120 days. According to information provided to the delegation during the visit, such prisoners would be subjected to a regime consisting of one hour of outdoor exercise every day, no access to activities, no association with other prisoners and one visit of one hour per month.

At the time of the visit, there had been no case of a prisoner being placed in solitary confinement under this provision of the law. Nevertheless, the CPT considers that the safeguards surrounding such a placement in solitary confinement are currently inadequate. To begin with, a prisoner in respect of whom a placement in solitary confinement under this provision is envisaged should be given an opportunity to express his/her views on the matter, after having been informed in writing of the reasons for the measure (it being understood that there might be reasonable justification for withholding from the prisoner specific details related to security). Further, once a placement decision has been confirmed a full interdisciplinary case conference should be convened and the prisoner invited to make representations to this body. A major task for the review team should be to establish an agenda for the prisoner with a view to addressing the issues which require the prisoner to be kept in solitary confinement. Among other things, the review should also look at whether some of the restrictions imposed on the prisoner are strictly necessary – thus it may be possible to allow some limited association with selected other prisoners. The prisoner should receive a written, reasoned decision from the review body and an indication of how the decision may be appealed. Moreover, the measure should be terminated as soon as it is no longer necessary.

Further, prisoners should have the right to appeal to an independent authority against the imposition or extension of a placement in solitary confinement.

As regards the regime, it is generally acknowledged that all forms of solitary confinement without appropriate mental and physical stimulation are likely, in the long term, to have damaging effects, resulting in deterioration of mental faculties and social abilities. It is essential that any persons placed in solitary confinement are guaranteed appropriate human contact and access to some meaningful activity.

In addition, the prison health-care service should be very attentive to the situation of any prisoner placed under this provision and report to the prison director whenever a prisoner’s health is being put at serious risk by being held in solitary confinement<sup>26</sup>.

**The CPT recommends that the Republika Srpska authorities take the necessary steps to put in place adequate safeguards for persons placed in administrative solitary confinement, in the light of the above remarks.**

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<sup>25</sup> See Article 142 of the Law on execution of criminal sanctions of the Republika Srpska.

<sup>26</sup> See also Rule 43 (2) and (3) of the 2006 European Prison Rules.



72. The new Republika Srpska LECS of 2010 does not regulate the use of means of restraint except as regards persons susceptible to acts of self-harm who are placed under medical supervision (Article 140)<sup>27</sup>. Further, the Rulebook on the use of firearms and other means of restraint of 2004 does not include the necessary safeguards that should be put in place whenever there is a need to resort to the use of means of restraint.

The CPT considers that every measure of mechanical restraint in respect of a prisoner: must involve the use of appropriately designed restraint equipment, which is properly applied by suitably trained staff; must be monitored and recorded, including centrally; and must be carried out in such a way as to maintain the dignity and safety of the prisoner. Further, mechanical restraints should never be applied as a punishment or for the staff's convenience. Moreover, resort to such restraints should not take place in the presence of other inmates and there should always be a continuous direct personal supervision by staff, with the measure lasting only until such time as is strictly necessary (e.g. for the prisoner to calm down), usually minutes rather than hours.

**The CPT recommends that the relevant authorities take steps to ensure compliance with the above criteria, through the adoption of the necessary regulations and the provision of appropriate training to staff.**

73. The delegation met a prisoner in *Banja Luka Prison* who, after having absconded, had been placed in a solitary confinement cell from 10 December 2010 to 3 March 2011. In other words, although the prisoner concerned was disciplined with 20 days of solitary confinement, he actually spent over 80 days in a solitary confinement cell. Further, he was allegedly handcuffed to a hook on a wall for some 60 days.

Another inmate, who had attempted to escape from Banja Luka Prison on 27 August 2010, was subsequently placed in a cell on his own in the heightened supervision block for four and a half months. He alleged that throughout this period he was kept handcuffed to his bed, except when he was offered one hour of outdoor exercise every morning.

In the CPT's view, the above-described cases, if confirmed, would constitute examples of inhuman and degrading treatment.

**The CPT recommends that the authorities carry out an independent investigation into the extended period of solitary confinement and alleged prolonged use of restraints vis-à-vis these prisoners, and inform the Committee of the outcome of that investigation.**

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<sup>27</sup> Article 144 of the LECS lists "tying" as one means of force and Article 147 refers to the procedures when the use of force is applied, including verbal warnings and medical examinations after the application of the use of force but it does not address the question of use of means of restraint or the safeguards that should be in place.

## 9. Contact with the outside world

74. The CPT attaches considerable importance to the maintenance of good contact with the outside world for all persons deprived of their liberty. The guiding principle should be to promote contact with the outside world as often as possible; any restrictions on such contacts should be based exclusively on security concerns of an appreciable nature<sup>28</sup>.

At Banja Luka Prison, visits to inmates on remand were restricted to one closed visit per month for a duration of one hour, subject to the permission of the investigating judge. The CPT fully understands that closed visiting arrangements may be necessary in some cases; however, this should not constitute the rule. Further, it appeared both from interviews with prisoners and from the visits log book that inmates were only being granted a maximum of 15 minutes visit time, well below the time permitted by the current regulations, even when the visitors travelled several hundred kilometres to get to the establishment.

At Doboj Prison, unless there were specific indications to the contrary, most inmates on remand were offered an open visit for a full one hour per month. Similar arrangements pertained at Istočno Sarajevo Prison.

For sentenced prisoners, the visiting arrangements in the establishments visited were, on the whole, satisfactory. The amount of time each prisoner was allowed for visits depended on their categorisation. All prisoners were initially classified as Category B which enabled them to benefit from three hours of visits per month, which would be increased to five hours if they progressed to Category A status or reduced to one hour if they regressed to Category C. At the time of the visit, about one-sixth (48) of inmates in Foča Prison were entitled to only one hour of visit time per month. Access to the telephone was not a problem in any of the prisons visited.

75. **The CPT recommends that the relevant authorities review the arrangements for visits, with a view to:**

- **increasing the amount of visiting time offered to both remand and sentenced prisoners, preferably to at least one hour every week;**
- **ensuring that both remand and sentenced prisoners are allowed to receive visits under reasonably open conditions.**

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See also European Prison Rule 24.2.

## 10. Complaints and inspection procedures

76. Effective complaints and inspection procedures are basic safeguards against ill-treatment in prisons. Prisoners should have avenues of complaint open to them, both within and outside the prison system, and be entitled to confidential access to an appropriate authority<sup>29</sup>. In addition to addressing the individual case involved, the CPT considers that a careful analysis of complaints can be a useful tool in identifying issues to be addressed at a general level.

77. In the prisons visited in the Republika Srpska, inmates could lodge complaints with prison staff, including the director, as described in the report on the 2007 visit<sup>30</sup>. Prisoners could also address the Ombudsperson's Office; however, there appeared to be no policy in place to guarantee the confidentiality of such correspondence. For example, at Banja Luka Prison prisoners on remand had to hand over all correspondence in an open letter to prison staff. At Foča Prison, the director informed the CPT's delegation that prisoners could write confidentially to the Ombudsperson's Office but in reviewing certain administrative files, a copy of a letter to the Ombudsperson's Office was found in the file of the prisoner concerned. Further, most prisoners met by the delegation expressed the view that all correspondence, including to the Ombudsperson's Office or another external complaints body, had to be submitted in open envelopes.

**The CPT recommends that information on the possibilities for lodging complaints be provided to every inmate, including on the right to correspond on a confidential basis with outside complaints' bodies, and that closed complaints boxes be installed in the prisons.**

78. The CPT attaches particular importance to regular visits to all prison establishments by an independent body with the authority to receive – and if necessary, take action on – prisoners' complaints, and to visit the premises. The newly merged State Ombudsperson's Office is mandated to carry out on-site inspections. The Ombudsperson's Office now has a dedicated unit specialising in prison matters and over the past two years has conducted visits to all the prisons in the country.

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<sup>29</sup> Article 83, paragraphs 3 to 6, of the 2010 Law on the execution of criminal sanctions in the Republika Srpska provides for the right of sentenced prisoners to make complaints to the director of the prison and other competent bodies for the protection of their rights, including the Ombudsman.

<sup>30</sup> See CPT/Inf (2009) 25, paragraph 80.

## C. Lukavica Immigration Detention Centre

### 1. Preliminary remarks

79. The CPT visited for the first time the Lukavica immigration detention centre, which is managed by the State Service for Aliens' Affairs under the Ministry of Security. The Centre is located in a wooded area in Istočno Sarajevo and has an official capacity to accommodate 80 men, 15 women and 15 persons in two family suites. At the time of the visit, the Centre was accommodating 30 foreign nationals, including three single women and two mothers with their four children.

The CPT considers that every effort should be made to avoid resorting to the deprivation of liberty of an irregular migrant who is a minor. Following the principle of the "best interests of the child", as formulated in Article 3 of the United Nations Convention on the Rights of the Child, the detention of children is rarely justified and, in the Committee's view, can certainly not be motivated solely by the absence of residence status. More specifically, unaccompanied minors should never be detained. Further, the Lukavica Centre is not adapted to the needs of children.

**The CPT recommends that the authorities avoid, as far as possible, detaining families with children. Further, unaccompanied minors should not be detained in the Lukavica Centre.**

80. The grounds for detention within the Lukavica Centre are set out in the Law on Movement and Stay of Aliens and Asylum of 2008<sup>31</sup>. Article 99 of the Law authorises "supervision" (i.e. detention) with a view to deportation following a decision to expel an alien. It also provides for detention of an alien when there is suspicion that the person may abscond, poses a threat to public order, security or public health, or has provided a false statement on his or her identity or the identity cannot be established.

According to Article 101 of the Law, an alien may appeal the decision on detention within 24 hours to the Ministry of Security and, if the Ministry does not revoke the decision on detention or fails to reply within 24 hours of receiving the appeal, a lawsuit may be filed with the Court of Bosnia and Herzegovina within the following 24 hours. The Court must render a decision within three days.

The Law states that detention may be no longer than 30 days (Article 100); however, this period may be extended by decision of the Aliens' Affairs Service of the Ministry of Security by a further 30 days at a time up to a total of 180 days (Article 102). Further, in exceptional cases, the Law (paragraph 5 of Article 102) permits the Aliens' Affairs Service to extend the detention beyond 180 days. The By-law on Supervision and Removal of Aliens from Bosnia and Herzegovina of October 2008 states, under Article 12(3), that the 180-day limit may be extended "when the alien prevents his/her removal or when the alien cannot be removed for any other reason whatsoever." There is no time limit to this extension.

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<sup>31</sup> See the Official Gazette of Bosnia and Herzegovina 36/08 of 6 May 2008.

**The CPT urges the authorities of Bosnia and Herzegovina to introduce a maximum time-limit for the detention of foreign nationals under aliens legislation;** such a time-limit already exists in the majority of European countries.

81. The delegation received hardly any allegations of ill-treatment by staff in the Centre. The vast majority of detainees interviewed stated that were treated correctly, and the delegation observed for itself the relaxed atmosphere between staff and detainees.

## **2. Conditions of detention**

82. The material conditions in the Centre were generally very good. The Centre consisted of a two-storey building for male detainees with direct access to a spacious outdoor courtyard. At the time of the visit, the 21 male detainees were accommodated on the ground floor of the building, primarily in reasonably sized multi-occupancy rooms, each containing two sets of bunk beds, personal cupboard space, a table and chairs. The lighting and ventilation were good. Each room also contained a fully partitioned sanitary annexe with a shower, toilet and sink. The conditions in the female unit and family suites were of a similar standard.

As regards food, the midday meal, provided by an outside caterer, was considered particularly good by all persons met. However, there were numerous complaints about the paucity of the evening meal, a fact acknowledged by the Director of the Centre. **The CPT invites the authorities to take steps to remedy this shortcoming.**

83. As to the regime, the detainees were allowed to be out of their rooms all day and could, in general, access the yard adjoining the building throughout the day. They also had access to a satellite television between 9 a.m. and 10.30 p.m., as well as to various books, magazines and newspapers, and there were plans to create a small library. However, the only organised activity was a daily football session.

For short stays, which is the case for the vast majority of the 700 persons who have passed through the Centre since its opening in 2008, the regime could be considered as acceptable. However, in respect of persons who have to stay in the Centre for more than a few weeks, additional measures need to be taken to offer some purposeful activities (educational, recreational or vocational). This is all the more important for those few persons detained for months on end with no immediate end to their detention in sight.

**The CPT recommends that the State authorities develop a range of purposeful activities for detained persons. The longer the period for which persons are detained, the more developed should be the activities which are offered to them.**

### 3. Health care

84. The health-care unit is staffed by one nurse, present during weekdays and on call at other times. Agreements with the Outpatient Clinic in Istočno Sarajevo and two other clinics provide for doctors to visit the Centre whenever there is a need and for a medical technician to replace the nurse when she is absent. Access to a dentist and a private psychiatric practice is also possible. The above resources are sufficient for the number of detainees held in the Centre at the time of the visit; however, nursing staff resources would have to be reinforced if ever the Centre operated close to its official capacity.

85. Access to care seemed, on the whole, to be adequate; every person entering the establishment was examined by a doctor within 24 hours and had a medical file opened. The medical files were properly kept and all incidents recorded; for example, those persons who had undertaken a hunger strike at the end of October 2010 had been visited daily by a doctor, and their blood sugar levels, blood pressure and weight measured and their general physical condition examined.

The delegation met a woman from Ethiopia who had apparently suffered from prolonged abuse and demonstrated signs of psychosis. However, no steps had been taken for a psychiatrist to examine her as she had apparently not requested such a meeting. The delegation requested that the woman be examined by a psychiatrist.

**The CPT recommends that the health-care unit take a more proactive approach towards detained persons who may be in need of specialised care. Regular check-ups should be made on persons detained for longer than 30 days. Further, the Committee would like to be informed of the care provided to the Ethiopian woman referred to above.**

### 4. Other issues

86. The CPT has constantly stressed the importance of ensuring that staff in centres for foreigners are carefully selected and receive appropriate training. As well as possessing qualities in the area of interpersonal communication, the staff concerned should be familiarised with the different cultures of the detainees and at least some of them should have relevant language skills. Ideally, they should be taught to recognise possible symptoms of stress reactions displayed by detained persons and to take appropriate action.

At the time of the visit, the Centre had a complement of 63 staff, including four women officers (with plans to hire another five female officers). Although the number of custodial and administrative staff was more than satisfactory, **there was a lack of staff to organise purposeful activities for detained persons.**

87. Contacts with the outside world were generally satisfactory. Detainees could be visited for two hours every week once the visitors had been cleared by the Director of the Centre, and additional visits were usually authorised. The visits themselves took place in a room under the visual supervision of the Centre's staff. Further, there were no restrictions on making or receiving telephone calls during the day. However, **efforts should be made to make the visiting area more child-friendly.**

88. Disciplinary sanctions for an infraction of the House Rules are provided for in Article 75 of the Rulebook on the Centre, and include the possibility of placing a detained person in solitary confinement for up to ten days. The facility possesses three suitably equipped cells for solitary confinement but they were hardly ever used. In the first three months of 2011, only one person was placed in solitary confinement, for a period of 10 days, after having attempted to escape.

A decision by the Director of the Centre to impose a sanction of solitary confinement may be appealed within three days to the Director of the Service for Aliens' Affairs within the Ministry of Security but it is not suspensive. However, no safeguards were in place to guarantee a fair hearing during any disciplinary proceedings.

**The CPT recommends that persons facing disciplinary charges be formally guaranteed the following rights:**

- **to be informed in writing of the charges against them and to be given sufficient time to prepare their defence;**
- **to be heard in person by the decision-making authority;**
- **to call witnesses on their own behalf and to cross-examine evidence given against them;**
- **to appeal to an independent authority against any sanctions imposed;**
- **to receive a copy of the disciplinary decision, informing them about the reasons for the decision and the avenues for lodging an appeal.**

**Further, the disciplinary procedures should be explained clearly in the relevant House Rules.**

89. There was no register for complaints. Instead, complaints were made in writing to the Centre's management and a copy was placed in the individual files of each detainee. An examination of the files showed that most complaints were actually requests for money for the telephone and cigarettes or about being released. External complaints could be submitted to the State Ombudsman and non-governmental organisations, both of which carried out visits to the Centre to examine the conditions and interview persons. In practice, such complaints were mostly made over the phone.

90. There was scope for improvement in the provision of information to detained foreign nationals whose detention was extended beyond 30 days. The major complaint of persons met by the delegation was the lack of knowledge of what was happening in their case and how long they would spend in custody. They claimed that they lacked information about the procedure for appealing placement decisions, and that the decisions on detention had not been translated into a language they understood. Further, some complained that they had not been able to challenge the extension of the administrative detention within the 24 hours required by law and that they had not been provided with access to free legal aid. **The CPT would like to receive the comments of the authorities in relation to these matters.**

91. Three of the persons at the Centre had been detained for 22 months or longer following the revocation of their citizenship and the decision to detain them, pending their deportation under the Law on Movement and Stay of Aliens and Asylum, due to the threat they posed to national security. The persons concerned have challenged their deportation orders under Article 3 of the European Convention on Human Rights, arguing that they will be at risk of torture and inhuman or degrading treatment if deported to their countries of origin. The European Court of Human Rights had issued provisional measures requesting that these persons should not be deported until such time as it has had an opportunity to consider the merits of their cases. At the time of the visit, the CPT's delegation was informed that these persons would remain in detention at least until such time as the European Court issued a decision. The three persons concerned told the CPT's delegation that the uncertainty of their legal situation and the fear of being deported at any moment was causing them severe anxiety.

**The CPT recommends that these persons be given appropriate psychological and psychiatric support. In this connection, additional arrangements might be considered to enable them to spend more time with their spouses and children.**



## **D. Psychiatric establishments**

### **1. Preliminary remarks**

92. The CPT's delegation carried out a follow-up visit to *Sokolac Psychiatric Clinic*, where it focused on the Male Acute Unit and the Forensic Psychiatric Unit (FPU). With an official capacity of 200 places, the Clinic was accommodating 144 patients at the time of the visit, of whom 20 were being held on the Male Acute Unit and 59 on the FPU<sup>32</sup> (21 of them on the locked ward).

The delegation also paid a follow-up visit to *Zenica Prison Forensic Psychiatric Annexe (FPA)*<sup>33</sup>, which was holding 20 patients on the day of the visit. A further three patients assigned to the Annexe were being accommodated in Pavilion VI.

93. It should be stressed at the outset that the delegation heard no allegations of ill-treatment of patients by staff at the two psychiatric establishments visited and gathered no other evidence of such treatment. Further, inter-patient violence did not appear to be a major problem in either of the establishments.

### **2. Sokolac Psychiatric Clinic**

#### **a. living conditions**

94. The delegation noted that certain improvements to the material conditions had been made in the civil part of the Clinic since the previous visit in 2009. This was particularly noticeable in the Male Acute Unit, where signs of repairs could be observed around the unit (walls re-painted; tiles on the floor replaced; etc.). It is also praiseworthy that the dormitories on all civil units of the Clinic had been equipped with new beds and mattresses, and patients were provided with lockable space in which to keep their personal belongings. Further, with the entry into service of a new boiler and the installation of new radiators, patients' living areas were now properly heated. The reconstructed refectory provided good dining facilities (though it was only accessible to patients from the rehabilitation/open units) and the establishment's laundry had undergone refurbishment.<sup>34</sup> In general, the delegation noted the management's efforts to keep the entire premises, including sanitary facilities, in an acceptable state of repair and cleanliness.

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<sup>32</sup> Both open and locked wards of the FPU held only male patients. There were also eight female forensic patients in the Clinic at the time of the visit, who were being held in the Female Acute and Female Rehabilitation Wards.

<sup>33</sup> The CPT had previously visited Sokolac Psychiatric Clinic in 2003, 2004, 2007 and 2009, and Zenica Prison FPA in 2003, 2007 and 2009. The reports on these visits (except for the report on the 2004 visit) are available on the Committee's website: <http://www.cpt.coe.int/en/states/bih.htm>

<sup>34</sup> The Clinic had also purchased a new ambulance.

That said, the general atmosphere in the dormitories and the day room on the Male Acute Unit remained austere and impersonal, with no decoration and only few pieces of furniture. Further, the Unit's dormitories were still cramped, with very little or no space between the beds. As regards outdoor exercise, some patients on the Unit were allowed to walk around the hospital grounds accompanied by nurses. However, those deemed to present a risk of absconding were denied the possibility to go outdoors due to insufficient staff numbers and the absence of a secure outdoor exercise area.

95. As regards the FPU, the delegation noted that some modest improvements had been made to the living conditions for forensic psychiatric patients since the CPT's previous visit; for example, patients now had access to personal lockable space. However, the conditions in most of the dormitories remained cramped<sup>35</sup> despite the fact that the number of patients on the unit had been reduced further. Moreover, most of the dormitories were only equipped with beds, many of which were in a poor state of repair. Evidently, it had been decided not to invest in the building pending the renovation of the new forensic psychiatric institution in Sokolac (see Section 4 below) and the transfer of all forensic patients to that facility.

The CPT is very concerned to note that the great majority of the patients from the locked ward of the FPU continued to be offered their two-hour daily exercise in a small cage-like area attached to the side of the building, which had insufficient space to stroll around and no shelter from inclement weather. Such a state of affairs is unacceptable.

**96. The CPT calls upon the relevant authorities to take the necessary measures to improve the living conditions at the Male Acute Unit and the FPU of Sokolac Psychiatric Clinic, notably to ensure that:**

- **occupancy numbers in the dormitories are kept at an acceptable level (at least 4 m<sup>2</sup> of living space per patient);**
- **better conditions are offered in the day rooms and dormitories as regards equipment and decoration;**
- **the arrangements for outdoor exercise for patients on the Male Acute Unit and on the locked ward of the FPU are reviewed, in order that all patients may benefit from such exercise in a reasonably spacious setting, which should also provide shelter from inclement weather.**

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<sup>35</sup> For example, 10 beds in 29 m<sup>2</sup>.

b. staff and treatment

97. The medical staffing levels at Sokolac Psychiatric Clinic had improved since the 2009 visit with the recruitment of three additional medical doctors<sup>36</sup>, one of whom had been assigned to the Male Acute Unit and another to the FPU. There was one psychiatrist on the Male Acute Unit<sup>37</sup> and three forensic psychiatrists (including the head of the Clinic) on the FPU.

The nursing staff resources on the Male Acute Unit and the FPU have been a *matter of concern* since the CPT's first visit to Sokolac Psychiatric Clinic in 2003. Regrettably, the situation had not improved at the time of the 2011 visit; the Male Acute Unit employed only two nurses on each shift, the morning shift on weekdays (from 7 a.m. till 1 p.m.) being reinforced by a head nurse. As regards the FPU, there were two nurses on duty on both the open and locked wards, day and night, who had to supervise and address the clinical needs of some 60 forensic psychiatric patients<sup>38</sup>. In the CPT's view, such low staffing levels are clearly insufficient to provide adequate care, assistance and supervision and to ensure a safe environment for patients (and staff).

The hospital also employed three psychologists, five social workers, a pedagogue and an occupational therapist. Nevertheless, there was a clear need for more professional staff qualified to provide therapeutic activities and other forms of psychosocial care, which is conducive to the emergence of a multidisciplinary approach.

**The CPT recommends that staff resources at Sokolac Psychiatric Clinic be reviewed in the light of the above remarks, the first priority to be given to reinforcing nursing staff resources.**

98. The CPT's delegation was told that part of the renovated refectory was to be used as a training centre, where members of staff would receive professional training, both during induction and on an ongoing basis. **The CPT would like to receive detailed information about the courses offered to staff.**

99. For the majority of patients at Sokolac Psychiatric Clinic, treatment continued to be based exclusively on pharmacotherapy, for which there appeared to be a sufficient quantity and fairly wide choice of psychotropic medication. The CPT has noted that some efforts were being made in the establishment's occupational therapy unit to provide other forms of treatment to patients; for example, some 15 patients attended the unit on a daily basis where they were offered rehabilitative and recreational activities, such as woodwork, knitting, drawing, table tennis, etc. In addition, group therapy sessions (with elements focusing, inter alia, on making patients aware of their condition and the need for treatment) were organised every weekday for groups of up to 20 patients.

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<sup>36</sup> According to information provided by the Clinic, each of them had also completed a specialised psychiatric training.

<sup>37</sup> In total, the civil part of the Clinic employed six psychiatrists.

<sup>38</sup> In addition, two security officers were present in the FPU at all times to ensure the general security within the unit.

However, the above-mentioned activities were mostly available to civil patients from the open/rehabilitation units. Only a small number of patients from the Male Acute Unit and the FPU had access to the occupational therapy unit<sup>39</sup>. The remainder of the patients on these two units (especially those on the Male Acute Unit and the locked ward of the FPU) spent most of the day wandering aimlessly in the units' corridors or watching television in crowded day rooms.

Further, contrary to what was affirmed in the response of the authorities of Bosnia and Herzegovina to the CPT's report on the 2009 visit<sup>40</sup>, the medical records examined by the delegation did not contain any trace of individual treatment plans for patients, setting out the goals of the treatment, the therapeutic means and the staff responsible. In this connection, on the Male Acute Unit the delegation noted the existence of special forms designed for filling out an individual treatment plan; however, these forms were all blank.

**The CPT reiterates its recommendation that an individual treatment plan be drawn up for each patient (taking into account the special needs of acute, long-term and forensic patients) and that greater efforts be made to develop psycho-social rehabilitation, including programmes on the prevention of re-offending for patients in the FPU.**

100. The CPT was concerned to note that deaths occurring at Sokolac Psychiatric Clinic were not subject to any post-mortem examination. In the CPT's view, just as is the case with other closed institutions, when a patient placed involuntarily in a psychiatric hospital dies<sup>41</sup>, an autopsy should follow, unless a medical authority independent of the hospital decides that an autopsy is unnecessary<sup>42</sup>.

**The Committee recommends that this approach be adopted and rigorously applied in every psychiatric establishment. More generally, the Committee recommends that the relevant authorities institute a practice of carrying out a thorough inquiry into every death of a patient, in particular with a view to ascertaining whether there are lessons to be learned as regards operating procedures.**

c. use of means of restraint

101. The CPT's report on the 2004 visit describes in detail the rules on the use of means of physical restraint set out in the Law on the Protection of Persons with Mental Disorders of Republika Srpska (see CPT (2005) 4, paragraph 19). It should be recalled that, pursuant to the law: patients should be warned prior to the application of a measure of restraint; resort to means of restraint must always be expressly ordered by a doctor (or immediately brought to the attention of a doctor); the duration of the application of a measure of restraint should not exceed four hours (up to eight hours in exceptional cases); permanent monitoring of a restrained patient by health-care staff should be carried out.

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<sup>39</sup> For example, at the time of the visit only three or four patients from the locked ward of the FPU attended the unit.

<sup>40</sup> See CPT/Inf (2010) 11, page 25, paragraph 9.

<sup>41</sup> Or when such a patient dies after being transferred to an outside medical facility.

<sup>42</sup> See Recommendation Rec(99)3 of the Committee of Ministers of the Council of Europe to member states on the harmonisation of medico-legal autopsy rules.

102. At Sokolac Psychiatric Clinic, patients could be strapped to a bed with specially designed leather belts. No recourse was apparently made to the seclusion of patients at the Clinic, where there was no dedicated secure room.

The delegation found no indication of excessive resort to restraint in the establishment<sup>43</sup>. According to the records, the duration of restraint did not usually exceed a few hours and it appeared that continuous supervision by a member of staff was ensured. Further, a proper register to record incidents of restraint was in place. That said, restraint belts continued to be applied inside multi-occupancy dormitories, in full view of other patients. It is also a matter of concern that the nurses had not received any specific training on the use of means of restraint.

103. In the CPT's opinion, it is imperative that every psychiatric establishment has a comprehensive, clearly-defined policy on the use of means of restraint. That policy should make clear that initial attempts to restrain agitated or violent patients should, as far as possible, be non-physical (e.g. verbal instruction) and that where physical restraint is necessary, it should in principle be limited to manual control. If, exceptionally, recourse is had to instruments of mechanical restraint, they should be removed at the earliest opportunity. Further, a restrained patient should not be exposed to other patients, unless he/she explicitly requests otherwise or when the patient is known to have a preference for company.

Patients subject to means of mechanical restraint should, at all times, have their mental and physical state continuously and directly monitored by a member of the health-care staff. Further, staff should receive training in both non-physical and manual control techniques vis-à-vis agitated or violent patients. Such training should not only focus on instructing health-care staff how to apply means of restraint but, equally importantly, should ensure that they understand the impact the use of restraint may have on a patient and that they know how to care for a restrained patient.

At the time of the visit, draft guidelines on the use of means of restraint were in preparation at the management level at Sokolac Psychiatric Clinic; **the CPT recommends that these guidelines be finalised and implemented as soon as possible, taking into account the above precepts.**

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<sup>43</sup> According to the register, there had been 15 instances of restraint in 2010, 26 in 2009 and 30 in 2008.

d. safeguards

104. In the Republika Srpska, involuntary hospitalisation of a civil nature is governed by the 2004 Law on the Protection of Persons with Mental Disorders; the relevant provisions of the law were described in detail in the CPT's report on the 2004 visit (see CPT (2005) 4, paragraph 27).

105. As was the case during previous visits, the CPT's delegation came across many instances in which patients brought to the Clinic for admission (usually by the police) were given the choice of voluntary hospitalisation for a period of three weeks. However, they were also told that if they refused to sign the consent form, they would be subjected to involuntary hospitalisation, which would last at least three months. Not surprisingly, all 77 civil patients accommodated in the Clinic at the time of the 2011 visit had been formally admitted to the establishment on a voluntary basis<sup>44</sup>. In reality, many of them, including all 37 patients on the locked units, were not free to leave the Clinic (and were forcefully brought back by staff or the police whenever they did leave); consequently, they should have been categorised as involuntary and the relevant safeguards in law afforded to them.

**The CPT calls upon the relevant authorities to review the admission procedures to Sokolac Psychiatric Clinic in the light of the above remarks, to ensure compliance with the existing legislation.**

106. The legal framework in the area of criminal proceedings involving mentally ill persons has not changed since the CPT's 2009 visit. Under current legislation, a court in the Republika Srpska may order mandatory psychiatric treatment in respect of a person who perpetrated a criminal offence in a state of "considerably diminished mental capacity" (*bitno smanjena uračunljivost*), if the court determines that there is a danger of commission of further offences.<sup>45</sup> Mandatory psychiatric treatment may be carried out concurrently with a sentence of imprisonment, community service or a suspended sentence, and its duration is linked to the length of the sentence concerned.

The examination of a number of patients' files at Sokolac Psychiatric Clinic showed that the need for mandatory psychiatric treatment was subject to *ex officio* review by a competent court on a regular basis (usually every six or twelve months), based on a psychiatric assessment report submitted by the Clinic. However, it appeared that forensic patients were not usually present during court hearings, nor were they represented by a lawyer. Further, some patients indicated that they were neither given copies of the psychiatric assessment reports nor copies of the relevant court decisions<sup>46</sup>. **The CPT recommends that steps be taken to remedy these shortcomings.**

107. At Sokolac Psychiatric Clinic, the delegation observed that there was a widespread perception that patients who were hospitalised against their will were, on account of their mental illness, not able to give valid consent to treatment. Further, in the case of "voluntary" admissions, the patient's consent to treatment was sought upon admission (included in the consent form on placement), before the clinical indications for a particular form of treatment were established. No documentation could demonstrate that the patient concerned had received detailed information on the diagnosis, the treatment proposed and the possible side effects.

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<sup>44</sup> According to staff, there were only 3-4 involuntary admissions per year.

<sup>45</sup> Section 58(1) of the 2003 Criminal Code of Republika Srpska.

<sup>46</sup> In some cases, it was the court's order not to deliver the decision to the patient concerned.

The CPT wishes to stress once again that psychiatric patients should, as a matter of principle, be placed in a position to give their free and informed consent to treatment. The admission of a person to a psychiatric establishment on an involuntary basis – be it in the context of civil or criminal proceedings – should not be construed as authorising treatment without his or her consent. It follows that every patient, whether voluntary or involuntary, should be given the opportunity to refuse – either in person or through his or her guardian – treatment or any other medical intervention. Any derogation from this fundamental principle should be based upon law and only relate to clearly and strictly defined exceptional circumstances. Of course, consent to treatment can only be qualified as free and informed if it is based on full, accurate and comprehensible information about the patient's condition and the treatment proposed. Consequently, all patients should be provided systematically with relevant information about their condition and the treatment which is proposed for them.

**The CPT recommends once again that steps be taken at Sokolac Psychiatric Clinic to distinguish clearly between the procedure for involuntary placement and the procedure for involuntary psychiatric treatment, in the light of the above remarks. Further, psychiatric patients (and if they are legally incompetent, also their guardians) should be provided with full, clear and accurate information before signing a consent to treatment (including on the possibility to withdraw their consent). Relevant information should also be provided to patients (and their guardians) during and following the treatment.**

108. The CPT's long-standing recommendation to systematically provide all newly-admitted patients (and their relatives) with an introductory brochure setting out in a comprehensible manner the establishment's routine and patients' rights (including the right to complain to relevant outside bodies) has not yet been implemented in the Clinic.

**The CPT calls upon the relevant authorities to ensure that such a brochure is drawn up and systematically provided to patients and their families upon admission.**

109. Although the Clinic received inspections from the Ministry of Health and Social Welfare and the regional health authorities on a regular basis, there was no independent outside body responsible for the continuous monitoring of patients' care. In this connection, the delegation was concerned to learn that the Commission for Protection of Persons with Mental Disorders was still not operational, despite its clear responsibility under the 2004 Law for supervising issues such as consent to treatment, the effectiveness of the right to appeal against involuntary placement, information pertaining to patients' rights and the nature and side effects of the treatment proposed.<sup>47</sup>

**The CPT reiterates its recommendation that urgent steps be taken to ensure the Commission becomes operational in the immediate future<sup>48</sup>.**

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<sup>47</sup> In addition, the Commission is empowered to receive complaints from patients and to act upon them.

<sup>48</sup> See also Article 16 (3) of the UN Convention on the Rights of Persons with Disabilities.

### 3. Zenica Prison Forensic Psychiatric Annexe

110. The CPT is concerned to note that the living conditions of forensic psychiatric patients at Zenica Prison Forensic Psychiatric Annexe (FPA) have remained largely the same as those observed during the Committee's previous visit in 2009 (see CPT/Inf (2010) 10, paragraphs 57 and 58). The current facility still does not provide an appropriate health-care environment for the number of patients it has to accommodate: the living rooms remain crowded and no steps have been taken to create a day room or other place for group therapy.

Patients' treatment continued to be limited to pharmacotherapy, the emphasis still being on security and containment rather than on an active therapeutic environment. No individual treatment plans had been established and a total absence of opportunities for psychosocial and occupational therapy remained the norm. Apart from taking outdoor exercise and watching television in their rooms, patients were offered no activities to occupy their time.

There have also been no developments as regards the staffing levels in the FPA. The current arrangement whereby one or two part-time psychiatrists visit the unit three times a week for several hours is not sufficient. Further, it is totally unacceptable that the nursing staff complement in the Annexe consists of only one nurse and that, as a result, patients are only supervised by a prison officer during much of the afternoon, at night and on weekends. It is also a matter of concern that the Annexe still has no input by specialist staff such as a psychologist, a social worker and an occupational therapist.

111. In the light of the above and for as long as the FPA remains in use (see Section 4 below), **the CPT calls upon the authorities of the Federation of Bosnia and Herzegovina (Ministries of Health, Justice and Social Welfare) to take immediate steps to improve the living conditions, treatment and staffing levels in that facility.**

112. The delegation noted that nearly all the patients had been at the FPA since the CPT's previous visit<sup>49</sup>. Some of the patients remained in the facility despite assessment reports issued by the psychiatrists of the FPA, which stated that their mental condition no longer required them to be held in the Annexe and that they could be cared for in the community. However, an apparent lack of adequate care and accommodation in the outside community as well as poor collaboration with social welfare centres were raised by staff as an obstacle to discharging patients. The CPT wishes to recall that for persons to remain hospitalised – and therefore deprived of their liberty – solely as a result of the absence of appropriate external facilities is a highly questionable state of affairs.

**The CPT reiterates its recommendation that the authorities of the Federation of Bosnia and Herzegovina ask the relevant social welfare centres and courts (who have responsibility for the patients) to make a formal request for the clinical needs of all the patients at the FPA to be fully reviewed, in order to ensure that those who could be safely managed elsewhere do not remain hospitalised longer than absolutely necessary. Further, every effort should be made to ensure that those patients who no longer require hospitalisation are able to be effectively discharged into the community.**

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<sup>49</sup> The delegation was informed that since 2009 only two patients had been discharged from the FPA and accommodated in social care homes.



113. As mentioned above, three forensic psychiatric patients, who had been admitted to the FPA in the latter half of 2010, had subsequently been placed in Pavilion VI<sup>50</sup> as they were deemed too dangerous to be accommodated in the Annexe. At the time of the visit, the three patients were each accommodated in a locked room on their own for 23 hours a day and were offered only one hour of outdoor exercise and limited possibilities to associate with other persons. Further, their placement in Pavilion VI is a reversal of the commitment by the authorities to no longer hold persons diagnosed as having a serious mental illness within Zenica Prison.

**The CPT recommends that urgent steps be taken to place these three forensic psychiatric patients in an environment which can offer them the appropriate treatment and living conditions.**

#### **4. A single forensic psychiatric institution for Bosnia and Herzegovina**

114. The agreement to set up a single forensic institution, to replace the Forensic Psychiatric Unit at Sokolac Clinic and Zenica Prison Forensic Psychiatric Annexe, was finally approved by the Council of Ministers of Bosnia and Herzegovina and the three Entity governments in September 2009. The new hospital (“the Special Hospital for Forensic Psychiatry”), which is expected to provide treatment for forensic psychiatric patients from all over the country, is being constructed on the premises of the former military hospital in Sokolac and, according to the information available to the CPT, will be under the authority of the Ministry of Health and Social Welfare of Republika Srpska.

115. In the course of the 2011 visit, the CPT’s delegation had the opportunity to visit the construction site of the new hospital facility, which it is envisaged will have a capacity of 200 places. The delegation observed that the substantial reconstruction of the whole building was nearing completion, but that the refurbishment work had slowed down.

Given the continuing poor conditions in which forensic psychiatric patients are currently held, **the CPT recommends that the authorities of Bosnia and Herzegovina make every effort to complete the above-mentioned reconstruction works as a matter of priority, in order to close down, as soon as possible, the current forensic psychiatric units at Sokolac Clinic and Zenica Prison.**

Further, **the Committee would like to be provided with detailed information on the new facilities (in particular, living conditions, availability of premises for socio-therapeutic activities and recreation), the staffing arrangements (numbers and qualifications) and the envisaged treatment options.**

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<sup>50</sup> Two of them in the high-security unit and one in the prison infirmary on the ground floor.

## **E. Social care homes**

### **1. Preliminary remarks**

116. The CPT's delegation carried out a follow-up visit to the **“Drin” Home for Mentally Disabled Persons**, in order to review the measures taken by the authorities to implement the recommendations made after the 2007 visit in respect of this establishment<sup>51</sup>. The Home was accommodating 520 residents at the time of the 2011 visit, of whom some 320 were being held in the main five-storey building and the remainder, all of whom had psychiatric illnesses, in a separate site (“Urlenike”) several hundred metres away.

117. The Home continued to operate as a long-term care institution, accommodating a very heterogeneous mix of residents of both sexes (children, adults, old persons, the mentally and physically handicapped and mentally ill persons, including forensic patients). The delegation observed that the condition of many residents at the Home, especially among those with psychiatric illnesses, did not require them to remain in a facility of this kind and that they could easily return to the community. However, according to the Home's management, there were difficulties in discharging residents due to a shortage of appropriate outside facilities or unwillingness on the part of their families<sup>52</sup>.

It should also be noted that the very size of the establishment, combined with the impersonal atmosphere, cramped facilities and lack of meaningful activities, creates a potential for institutionalisation<sup>53</sup>. In this connection, the CPT is concerned by the increase in the number of Home's residents since the previous visit<sup>54</sup>. Moreover, it transpired that a high proportion of newly admitted residents were psychiatric patients (e.g. 27 out of 31 admissions in 2010).

**The CPT recommends that the authorities of the Federation of Bosnia and Herzegovina take vigorous measures to develop alternatives to institutional care, through the establishment of appropriate structures in the outside community (see also paragraph 127).**

118. The delegation heard no allegations, and gathered no other evidence, of ill-treatment of residents by staff of the Home. In particular in the main building, the atmosphere was relaxed and staff-resident relations were good.

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<sup>51</sup> See CPT/Inf (2009) 25.

<sup>52</sup> The delegation was told that it had been possible to return six residents to their families in 2010, almost every return being preceded by lengthy negotiations with family members.

<sup>53</sup> In Urlenike, the delegation met patients, who, according to staff, were not in need of hospitalisation, but had given up in their long standing attempts to return to the community.

<sup>54</sup> The Home had 480 residents at the time of the 2007 visit.

## 2. Living conditions, staffing and treatment

119. Living conditions at the Home did not differ much from those observed in 2007 and remained on the whole satisfactory. The delegation noted the ongoing construction of a new kitchen facility and a new refectory. Further, a new unit was being built, which was planned to provide accommodation for some 40 residents capable of living independently; however, the delegation was told that work on this unit had been halted due to lack of funding.

That said, the overcrowding in the residents' dormitories, already observed during the previous visit, had increased on both sites of the establishment, with a number of residents being obliged to sleep in the day rooms on sofas. Further, the communal bathrooms in the main building were in a poor state of repair (e.g. damaged doors, broken tiles, etc.) and the single shower head in each bathroom was insufficient to properly meet the needs of the residents.

**The CPT recommends that steps be taken to provide all residents with their own bed in distinct sleeping accommodation. In this context, the authorities of the Federation of Bosnia and Herzegovina should, inter alia, give a high priority to the completion of the new accommodation unit. Steps should also be taken to improve the state of repair of the communal bathrooms in the main building of the Home and to increase the number of shower heads in each bathroom.**

120. Staffing levels at the "Drin" Home remained inadequate for the number of residents. As regards ward-based staff, a number of additional nurses and carers had been recruited since 2007 and the Home now employed 28 nurses and 86 carers. However, these numbers were still not sufficient, especially taking into account the profile of the residents (for example, a ward with 80 learning disabled residents had one nurse and three carers during the day and one carer at night). More ward-based staff would allow for greater opportunities for supervision and staff-resident interaction on an individual basis.

Further, the establishment still only benefited from weekly visits by a psychiatrist. As was already pointed out by the CPT in its report on the 2007 visit, such psychiatric presence is clearly insufficient, bearing in mind that the establishment is accommodating some 200 psychiatric patients. Other specialist doctors visited the Home on a regular basis; however, the delegation was concerned to learn that visits by a general practitioner had been limited to twice a week as opposed to a full-time presence in 2007.

The Home also employed eight occupational therapists, four physiotherapists, three social workers, a psychologist, a defectologist, a speech therapist, a pedagogue, and a sports instructor.

**The CPT recommends that the authorities of the Federation of Bosnia and Herzegovina take steps to improve staffing levels at the "Drin" Home in the light of the above remarks, and in particular:**

- to further increase the number of ward-based staff (i.e. nurses and carers);
- to increase the presence of a general practitioner (preferably to the equivalent of a full-time post).

Further, as long as the Home continues to accommodate such a large number of psychiatric patients, **the CPT recommends that steps be taken to significantly reinforce the psychiatric input at the establishment (to the equivalent of at least one full-time psychiatrist).**

121. The CPT wishes to place on record the sensitivity and compassion demonstrated by staff of the Home towards the persons in their charge. Nevertheless, the Committee considers – and this was also the view of the Home’s management – that there is a need for staff to be provided with ongoing training and support in carrying out their challenging duties. In this regard, the delegation was informed that some short-term courses had been organised for staff in 2010. **The CPT recommends that staff at “Drin” be provided with further training and support to fulfil their duties professionally.**

122. Residents’ personal medical files were well kept and there was an individual treatment plan for each resident. The great majority of the residents were receiving psychotropic medication, access to which did not appear to be problematic.

Attempts were also being made by the management to offer residents other therapeutic approaches such as occupational therapy, art/music therapy, educational, sociotherapy and recreational activities. Physiotherapy sessions were organised for a small group of residents who had access to the indoor gym facility. Further, the textile and wood workshops occupied some 15 and 25 residents respectively, while some 20 residents worked on the establishment’s agricultural farm. In addition, a number of residents were involved in hygiene or maintenance tasks around the Home and in other support duties such as feeding residents. Other activities included occasional outings (such as shopping in town, picnics, etc.) in the summer months.

Nevertheless, most of the residents led a monotonous existence, spending the day in the day rooms (where they played board games, read or watched television) or in the grounds outside. There is a need to develop further therapeutic, occupational and leisure activities and involve more residents in these activities.

**The CPT recommends that steps be taken at the “Drin” Home to ensure that more residents benefit from psychosocial and occupational therapeutic activities adapted to their mental capacity and physical mobility.**

123. The CPT has serious misgivings about the practice observed in the main building of the Home of mixing mentally ill residents with the learning disabled. The Committee is far from convinced that such a practice is beneficial for either category of resident. **The CPT would like to receive the comments of the authorities of the Federation of Bosnia and Herzegovina on this issue.**

### 3. Means of restraint

124. Resort to means of restraint appeared to be infrequent. According to the internal guidelines on the use of restraint, a highly agitated resident could, after consultation with the psychiatrist, be restrained on a bed (using cotton straps with four- or five-point fixation), but for no longer than two hours. In Urlenike, there was also a seclusion room in which residents who may cause harm to others or to themselves could be placed. A member of staff was said to be constantly present whenever a resident was subjected to mechanical restraint.

However, no separate register had been established for recording instances of fixation and seclusion<sup>55</sup>. It is also a matter of concern that fixation was applied inside residents' dormitories and thus in full view of other residents.

**The CPT recommends that a central register be created at the "Drin" Home, containing full information on every instance of the use of means of restraint (in particular, the times at which the restraint measure began and ended, the circumstances of the case, the reasons for resorting to the measure, the name of the doctor who ordered or approved it, and an account of any injuries sustained by residents or staff). Further, a restrained resident should not be exposed to other residents, unless he/she explicitly requests otherwise or when the resident is known to have a preference for company.**

### 4. Placement procedures

125. The procedures for the placement of a resident in a social care home were described in the CPT's report on the 2007 visit<sup>56</sup> and remain unchanged. Such placement is proposed by the guardian of the person concerned (either the social work centre in which the resident is registered or a family member). The prerequisites for placing a resident in a social care home are that the person be deprived of their legal capacity, have a psychiatric disorder and/or mental disability and have completed any hospital treatment. If these requirements (and certain others) are met, an internal commission of the social care home examines the application and decides whether or not to accept the person. Upon admission, the social work centre or the family (whichever is the guardian), signs a contract with the social care home whereby, in return for a monthly fee, the home will care for and treat the resident. The social care home also undertakes to submit a yearly report to the guardian.<sup>57</sup>

126. All the residents of the "Drin" Home had had their legal capacity removed (indefinitely or for a limited time period<sup>58</sup>) by a court decision, and had a legal guardian appointed by the relevant social work centre.

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<sup>55</sup> A restraint form was filled in for every instance of fixation which, however, did not record the time of ending the measure.

<sup>56</sup> See CPT/Inf (2009) 25, paragraph 128.

<sup>57</sup> See *ibid.*, paragraphs 136 and 137, for the main legal provisions regarding guardianship.

<sup>58</sup> 515 residents had had their legal capacity removed indefinitely.

In the report on the 2007 visit, the CPT made a recommendation concerning the introduction of judicial review of placement whenever a person is placed in a social care home involuntarily or at the instigation of a guardian. In that report, the Committee also expressed its concern about the apparent lack of appropriate safeguards in place for persons who had been deprived of their legal capacity and subsequently placed in a social care home, and recommended that the relevant authorities institute regular automatic reviews for residents placed in social care homes.

The 2011 visit revealed that neither of these recommendations had been implemented. **The CPT therefore recommends once again that the relevant authorities take the necessary steps to ensure that:**

- **all decisions to place a person in a social care home involuntarily or at the instigation of a guardian are notified to a court, with a view to seeking the court's approval for the placement;**
- **the need for continued placement of a resident in a social care home is automatically reviewed on a regular basis.**

127. More generally, the authorities of the Federation of Bosnia and Herzegovina should review the current approach of depriving persons with long-term mental health problems of their legal capacity and holding them indefinitely in a closed institution of this type, without properly addressing their mental health needs. A change of approach can only be achieved through ensuring that social work centres and medical institutions work together to build up mental health services in local communities. At the same time, the relevant legislation will have to be amended accordingly, including amendments that will prevent the practice of depriving persons of their legal capacity unnecessarily and for periods of an indefinite duration<sup>59</sup>. The restriction of a person's rights should not be based on the mere fact that he or she has a mental disorder and is placed in a closed institution. The deprivation of legal capacity, which may well be required to protect the patient and his financial interests, should require additional grounds and a separate procedure.

Further, the CPT considers that there should be a national plan for mental health services which addresses the challenges faced by psychiatric institutions and social care homes (including funding issues) and seeks to develop a process of de-institutionalisation<sup>60</sup> (e.g. community mental health centres and community group homes).

**The CPT recommends that the authorities of the Federation of Bosnia and Herzegovina take steps to reorganise the system of provision of care to persons with mental disabilities, in the light of the above remarks.**

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<sup>59</sup> See also Recommendation Rec(99)4 of the Committee of Ministers of the Council of Europe to member States on Principles concerning the Legal Protection of Incapable Adults.

<sup>60</sup> Reference should also be made to the UN Convention on the Rights of Persons with Disabilities, which Bosnia and Herzegovina ratified in 2010.

## **APPENDIX I**

### **LIST OF THE CPT'S RECOMMENDATIONS, COMMENTS AND REQUESTS FOR INFORMATION**

#### **Cooperation between the CPT and the authorities of Bosnia and Herzegovina**

##### comments

- the Committee trusts that, in future, the credentials supplied by the State authorities will be valid for all places in Bosnia and Herzegovina where persons may be deprived of their liberty by a public authority, and that all relevant staff will be informed of the Committee's mandate and powers (paragraph 5).

#### **Law enforcement agencies**

##### **Torture and other forms of ill-treatment**

##### recommendations

- the Ministers of Interior and Police Commissioners to deliver a strong message that the ill-treatment of detained persons is illegal, unprofessional, and will be the subject of severe sanctions. This message should be reiterated at appropriate intervals by the Chiefs of Police. Further, the relevant authorities should ensure that an investigation is carried out into every allegation of ill-treatment and that senior officers are held accountable for their line-management responsibilities (paragraph 10);
- an independent inquiry to be carried out into the methods used by crime inspectors at Banja Luka Central Police Station when detaining and interviewing suspects (paragraph 10);
- the authorities to pursue a multifaceted approach, comprising: a competitive recruitment process based upon strict selection criteria; an educational training course for all new recruits; and the provision of specific competency courses, on a regular basis, for serving police officers, both to update their skills and knowledge and to provide them with new competencies (paragraph 11);
- whistle-blower protection legislation to be adopted (paragraph 12);
- whenever criminal suspects brought before a prosecutor or judge allege ill-treatment by law enforcement officials, the prosecutor/judge to 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. Even in the absence of an express allegation of ill-treatment, the prosecutor/judge to request a forensic medical examination whenever there are other grounds to believe that a person brought before him could have been the victim of ill-treatment (paragraph 14);

- the Chief Prosecutors in both Entities to recall firmly that prosecutors should act in accordance with the principles referred to in paragraph 14 (paragraph 14);
- the police officers charged with escorting the detained person to the doctor not to be the same ones against whom the allegations of ill-treatment are directed. In such cases, the duty of escorting detained persons to a medical clinic should be entrusted to judicial police officers (paragraph 14);
- the confidentiality of medical examinations to be respected and the results of the examination made available to the detained person (paragraph 14).

#### comments

- no more force than is strictly necessary should be used when effecting an arrest and, once arrested persons have been brought under control, there can never be any justification for striking them. Police officers should be reminded regularly, and in an appropriate manner, of these basic principles (paragraph 10).

#### requests for information

- the outcome of the investigation initiated as regards cases i) and ii) referred to in paragraph 8 (paragraph 10);
- the outcome of the investigation into the allegations of ill-treatment in case ix) referred to in paragraph 8, as well as a copy of the complainant's medical file (paragraph 10);
- confirmation that all unauthorised items have been removed from interview rooms (i.e. the offices of crime inspectors) (paragraph 10).

### **Safeguards against ill-treatment**

#### recommendations

- the authorities of Bosnia and Herzegovina to ensure that all detained persons are granted the right to notify a close relative or third party of their choice of their situation as from the very outset of their deprivation of liberty by the police (paragraph 16);
- the authorities of Bosnia and Herzegovina to ensure that the right of access to a lawyer, as defined in paragraph 18, is both explicitly granted in law and rendered effective in practice for everyone deprived of their liberty by the law enforcement authorities, from the very outset of their deprivation of liberty (paragraph 18);
- the authorities to bring to the attention of the Bar Associations the concerns of the Committee as regards the quality of the advice provided by *ex officio* lawyers (paragraph 19);



- specific legal provisions to be adopted on the subject of access to a doctor, stipulating inter alia that:
  - a doctor must be called or a person taken to a medical facility without delay if a detained person requests a medical examination. Further, even in the absence of such a request, the above-mentioned action must be taken if a person in police custody is in apparent need of medical treatment;
  - a person taken into police custody has the right to be examined, if he or she so wishes, by a doctor of his or her own choice, in addition to any medical examination carried out by a doctor called by the police authorities;
  - all medical examinations of persons in police custody, whether carried out on police premises or in a health care facility, are to take place out of the hearing and - unless the doctor concerned expressly requests otherwise in a given case - out of the sight of police officers;
  - the results of every examination, as well as any relevant statements by the person in custody and the doctor's conclusions, should be recorded in writing by the doctor and made available to the detained person and upon request to his or her lawyer (paragraph 20);
  
- the authorities to take the necessary steps to ensure that the custody registers are scrupulously filled out and that a register is maintained for every detention facility where persons are deprived of their liberty (paragraph 21).

#### requests for information

- confirmation that the 24 hour period of deprivation of liberty by the police runs from the moment the person concerned is apprehended and not from the time he arrives at a police station (paragraph 21).

#### **Material conditions**

##### recommendations

- the necessary steps to be taken to ensure that offices are not used as ad hoc detention facilities and that detained persons are not handcuffed to radiators or items of furniture. Detained persons should be accommodated in rooms/cells designed specifically for that purpose, offering appropriate security conditions (paragraph 24);
  
- immediate steps to be taken to put in place proper arrangements (including a food budget) for the detention of persons overnight in Banja Luka Central Police Station (paragraph 24);
  
- the authorities to pursue their efforts to ensure that all police stations in which persons may be detained for up to 24 hours meet the basic standards enumerated by the Committee in paragraph 22. In addition, arrangements should be made to ensure that all persons detained in police stations are offered food and water at appropriate times (paragraph 24);
  
- conditions of detention in Istočno Sarajevo, Konjic and Mostar Police Stations to be reviewed, in order to remedy the shortcomings referred to in paragraph 23 (paragraph 24).

## **Prison establishments**

### **Preliminary remarks**

#### requests for information

- the timetable for the adoption by the Federation of Bosnia and Herzegovina of a new law on execution of criminal sanctions (paragraph 28).

### **Ill-treatment**

#### recommendations

- the relevant authorities to deliver a clear message to all custodial staff that the ill-treatment of prisoners is not acceptable. Particular attention should be paid to the situation in Banja Luka Prison (paragraph 30);
- all necessary steps to be taken to ensure that any ill-treatment is the subject of severe penalties (paragraph 30);
- the relevant authorities to devise a coherent strategy to combat inter-prisoner violence; part of this strategy will have to include investing far more resources in recruiting additional staff and promoting their training (paragraph 32);
- the existing procedures to be reviewed in all prisons in Bosnia and Herzegovina in order to ensure that whenever injuries are recorded by a doctor which are consistent with allegations of ill-treatment made by a prisoner (or which, even in the absence of allegations, are indicative of ill-treatment), the record is systematically brought to the attention of the relevant prosecutor, regardless of the wishes of the person concerned (paragraph 33);
- when allegations of ill-treatment by prison staff are the subject of an investigation, the staff members concerned to be transferred to duties not requiring day-to-day contact with prisoners, pending the results of the investigation (paragraph 33).

### **High-security units and heightened supervision (with intensive treatment)**

#### recommendations

- the authorities of the Federation of Bosnia and Herzegovina to take the necessary steps to provide a clear legal basis, with appropriate safeguards and a defined assessment process, for the placement of prisoners in the high-security units at Zenica Prison, in the light of the remarks set out in paragraph 35 (paragraph 35);
- the Republika Srpska authorities to take the necessary steps to ensure that the safeguards described in paragraph 35 apply to the placement of prisoners in the special regime unit in Foča Prison (paragraph 36);

- steps to be taken to provide prisoners placed in high-security units with a purposeful regime, which includes a diverse range of activities, in the light of the remarks set out in paragraph 39 (paragraph 39);
- the relevant authorities in the Republika Srpska to take the necessary steps to ensure that a prisoner is informed in writing of the reasons for placement and of any extension of that placement in a heightened supervision unit, and is guaranteed the right of appeal to an independent authority (paragraph 40);
- steps to be taken to provide prisoners placed in heightened supervision units with a purposeful regime, which includes a diverse range of activities. A revised sentence plan should be drawn up together with the prisoner, setting out the objectives and goals to be achieved in order to successfully reintegrate into the general population. Any review of the prisoner's placement should include a re-evaluation of the plan (paragraph 44);
- every effort to be made to enable prisoners to associate with other inmates. For those inmates accommodated in a cell on their own, opportunities for them to associate with other prisoners during the day should be put in place (paragraph 44);
- the cells on the ground floor of Building II of Foča Prison used for heightened supervision to be renovated and all cells to have sufficient light to enable prisoners to read (paragraph 44);
- the relevant authorities to take appropriate steps to provide prisoners placed on protection for more than a short period with purposeful activities and proper support from the health-care service (paragraph 45).

#### requests for information

- whether the heightened supervision unit at Foča Prison will continue to operate after the opening of the high-security unit and, if so, to what extent its purpose and regime will differ from that unit (paragraph 44).

### **Staffing**

#### recommendations

- the relevant authorities to review the current staffing levels throughout the prison system, starting with Foča and Zenica Prisons and, subsequently, to inform the CPT about the concrete action taken. The number of prison officers employed must be sufficient to guarantee staff safety and the physical and mental integrity of inmates (paragraph 46);
- the authorities to put in place a comprehensive human resources policy for prison staff in both Entities, which comprises initial training, regular refresher and specialist courses and ongoing support (paragraph 47);
- the relevant authorities to introduce a professional management career path within the prison system and directors and senior managers to be provided with the necessary management training to fulfil their tasks competently (paragraph 48).

## **Material conditions**

### comments

- in a few of the cells in the pre-trial section of Banja Luka Prison, the minimum standard of 4m<sup>2</sup> of living space per inmate was not met (paragraph 49);
- some complaints were received in the pre-trial section of Banja Luka Prison about a lack of cleaning products to maintain hygiene in the cell (paragraph 49);
- the CPT urges the authorities to undertake as soon as possible the necessary renovations on the ground and first floors of the building accommodating sentenced prisoners at Banja Luka Prison (paragraph 49);
- the CPT invites the relevant authorities to reduce the official capacity of Dobojski Prison, in the light of the remarks made in paragraph 50 (paragraph 50);
- in certain dormitories of several of the kolektivs in Buildings I and II in Foča Prison, there was not a minimum of 4m<sup>2</sup> of living space per prisoner, as provided for by law (paragraph 51).

## **Regime**

### recommendations

- the relevant authorities to take the necessary steps to improve radically out-of-cell activities for remand prisoners, with a view to meeting the objective referred to in paragraph 53. Appropriate steps should also be taken to ensure that restrictions on prisoners are only applied when this is strictly necessary for the maintenance of good order or the administration of justice, and for the shortest period of time necessary for this purpose (paragraph 55);
- the Republika Srpska authorities to take the necessary measures to ensure that all sentenced prisoners in Banja Luka, Dobojski and Foča Prisons are offered activities of a purposeful and diverse nature, in accordance with the basic aims of imprisonment, as provided for by law (paragraph 57).

### comments

- no justifiable reason could be provided for not authorising remand prisoners to keep a pen or pencil in their cell (paragraph 54).

## **Health care**

### recommendations

- steps to be taken to reinforce health-care staffing levels in order to ensure:
  - at Banja Luka Prison, the recruitment of at least two qualified nurses;
  - at Foča Prison, the equivalent of a full-time doctor and of two additional qualified nurses, preferably one of whom should be a qualified mental health nurse (paragraph 62);
- the relevant authorities to take the necessary steps to provide appropriate training and support to health-care staff working in prisons, in the light of the remarks in paragraph 63 (paragraph 63);
- the relevant authorities to ensure that every newly arrived prisoner is properly interviewed and physically examined by a medical doctor during the initial medical consultation, and the results recorded in full (paragraph 64);
- the relevant authorities to take steps to ensure that the practice in all prisons as regards medical examinations of prisoners is brought into line with the considerations set out in paragraph 65 (paragraph 65);
- the relevant authorities to take steps to ensure that medical confidentiality is fully guaranteed in all prison establishments. This implies that all medical examinations of prisoners should be conducted out of the hearing and - unless the doctor concerned requests otherwise in a particular case - out of the sight of prison officers (paragraph 66);
- the relevant authorities to ensure that prison health-care services institute a health information programme in all prisons about transmissible diseases, and provide prison staff with specific training on the issue of transmissible diseases (paragraph 67);
- a comprehensive strategy to be drawn up for the provision of assistance to prisoners with drug-related problems, as one aspect of a national drugs strategy (paragraph 68).

## **Discipline, segregation and restraint**

### recommendations

- the necessary steps to be taken to ensure that prisoners have a right of appeal to an independent authority against any disciplinary sanctions imposed (paragraph 69);
- the Republika Srpska authorities to take the necessary steps to put in place adequate safeguards for persons placed in administrative solitary confinement, in the light of the remarks in paragraph 71 (paragraph 71);
- the relevant authorities to take steps to ensure compliance with the criteria on the use of means of restraint referred to in paragraph 72, through the adoption of the necessary regulations and the provision of appropriate training to staff (paragraph 72);

- the authorities to carry out an independent investigation into the extended period of solitary confinement and alleged prolonged use of restraints vis-à-vis the prisoners referred to in paragraph 73, and to inform the CPT of the outcome of that investigation (paragraph 73).

#### comments

- resort should be had to immediate isolation of a prisoner only when this is absolutely necessary for the maintenance of good order, safety and security, and it should be for the shortest period of time necessary for this purpose. Further, the isolated prisoner should be seen immediately after confinement by a senior staff member and given an opportunity to present his views on the matter. It is also essential that any resort to solitary confinement is clearly provided for in law. The isolated prisoner should also be visited on a daily basis by a medical doctor or a nurse (paragraph 70).

### **Contact with the outside world**

#### recommendations

- the relevant authorities to review the arrangements for visits, with a view to:
  - increasing the amount of visiting time offered to both remand and sentenced prisoners, preferably to at least one hour every week;
  - ensuring that both remand and sentenced prisoners are allowed to receive visits under reasonably open conditions(paragraph 75).

### **Complaints and inspection procedures**

#### recommendations

- information on the possibilities for lodging complaints to be provided to every inmate, including on the right to correspond on a confidential basis with outside complaints' bodies, and closed complaints boxes to be installed in the prisons (paragraph 77).

## **Luckavica Immigration Detention Centre**

### **Preliminary remarks**

#### recommendations

- the authorities to avoid, as far as possible, detaining families with children. Further, unaccompanied minors should not be detained in the Luckavica Centre (paragraph 79);
- the authorities of Bosnia and Herzegovina to introduce a maximum time-limit for the detention of foreign nationals under aliens legislation (paragraph 80).

### **Conditions of detention**

#### recommendations

- the State authorities to develop a range of purposeful activities for detained persons. The longer the period for which persons are detained, the more developed should be the activities which are offered to them (paragraph 83).

#### comments

- the CPT invites the authorities to take steps to remedy the paucity of the evening meal (paragraph 82).

### **Health care**

#### recommendations

- the health-care unit to take a more proactive approach towards detained persons who may be in need of specialised care. Regular check-ups should be made on persons detained for longer than 30 days (paragraph 85).

#### requests for information

- the care provided to the Ethiopian woman referred to in paragraph 85 (paragraph 85).

## **Other issues**

### recommendations

- persons facing disciplinary charges to be formally guaranteed the following rights:
  - to be informed in writing of the charges against them and to be given sufficient time to prepare their defence;
  - to be heard in person by the decision-making authority;
  - to call witnesses on their own behalf and to cross-examine evidence given against them;
  - to appeal to an independent authority against any sanctions imposed;
  - to receive a copy of the disciplinary decision, informing them about the reasons for the decision and the avenues for lodging an appeal(paragraph 88);
- the disciplinary procedures to be explained clearly in the relevant House Rules (paragraph 88);
- the three persons referred to in paragraph 91 to be given appropriate psychological and psychiatric support. In this connection, additional arrangements might be considered to enable them to spend more time with their spouses and children (paragraph 91).

### comments

- there was a lack of staff at the Centre to organise purposeful activities for detained persons (paragraph 86);
- efforts should be made to make the visiting area of the Centre more child-friendly (paragraph 87).

### requests for information

- the comments of the authorities in relation to the complaints made by detained persons on the matters referred to in paragraph 90 (paragraph 90).



## **Psychiatric establishments**

### **Sokolac Psychiatric Clinic**

#### recommendations

- the relevant authorities to take the necessary measures to improve the living conditions at the Male Acute Unit and the FPU of Sokolac Psychiatric Clinic, notably to ensure that:
  - occupancy numbers in the dormitories are kept at an acceptable level (at least 4 m<sup>2</sup> of living space per patient);
  - better conditions are offered in the day rooms and dormitories as regards equipment and decoration;
  - the arrangements for outdoor exercise for patients on the Male Acute Unit and on the locked ward of the FPU are reviewed, in order that all patients may benefit from such exercise in a reasonably spacious setting, which should also provide shelter from inclement weather(paragraph 96);
- staff resources at Sokolac Psychiatric Clinic to be reviewed in the light of the remarks in paragraph 97, the first priority to be given to reinforcing nursing staff resources (paragraph 97);
- an individual treatment plan to be drawn up for each patient (taking into account the special needs of acute, long-term and forensic patients) and greater efforts to be made to develop psycho-social rehabilitation, including programmes on the prevention of re-offending for patients in the FPU (paragraph 99);
- an autopsy to be carried out whenever a patient placed involuntarily in a psychiatric hospital dies, unless a medical authority independent of the hospital decides that an autopsy is unnecessary (paragraph 100);
- the relevant authorities to institute a practice of carrying out a thorough inquiry into every death of a patient, in particular with a view to ascertaining whether there are lessons to be learned as regards operating procedures (paragraph 100);
- the guidelines concerning the use of means of restraint to be finalised and implemented as soon as possible at Sokolac Psychiatric Clinic, taking into account the precepts set out in paragraph 103 (paragraph 103);
- the relevant authorities to review the admission procedures to Sokolac Psychiatric Clinic in the light of the remarks made in paragraph 105, to ensure compliance with the existing legislation (paragraph 105);
- steps to be taken to remedy the shortcomings described in paragraph 106 as regards the procedure in relation to mandatory psychiatric treatment (paragraph 106);

- steps to be taken at Sokolac Psychiatric Clinic to distinguish clearly between the procedure for involuntary placement and the procedure for involuntary psychiatric treatment, in the light of the remarks in paragraph 107 (paragraph 107);
- psychiatric patients (and if they are legally incompetent, also their guardians) to be provided with full, clear and accurate information before signing a consent to treatment (including on the possibility to withdraw their consent). Relevant information should also be provided to patients (and their guardians) during and following the treatment (paragraph 107);
- the relevant authorities to ensure that an introductory brochure, setting out in a comprehensible manner the establishment's routine and patients' rights, is drawn up and systematically provided to patients and their families upon admission (paragraph 108);
- urgent steps to be taken to ensure that the Commission for Protection of Persons with Mental Disorders becomes operational in the immediate future (paragraph 109).

#### requests for information

- detailed information about the training courses offered to staff at Sokolac Psychiatric Clinic (paragraph 98).

### **Zenica Prison Forensic Psychiatric Annexe**

#### recommendations

- the authorities of the Federation of Bosnia and Herzegovina (Ministries of Health, Justice and Social Welfare) to take immediate steps to improve the living conditions, treatment and staffing levels in the Forensic Psychiatric Annexe (FPA) (paragraph 111);
- the authorities of the Federation of Bosnia and Herzegovina to ask the relevant social welfare centres and courts (who have responsibility for the patients) to make a formal request for the clinical needs of all the patients at the FPA to be fully reviewed, in order to ensure that those who could be safely managed elsewhere do not remain hospitalised longer than absolutely necessary. Further, every effort should be made to ensure that those patients who no longer require hospitalisation are able to be effectively discharged into the community (paragraph 112);
- urgent steps to be taken to place the three forensic psychiatric patients held in Pavilion VI in an environment which can offer them the appropriate treatment and living conditions (paragraph 113).

## **A single forensic psychiatric institution for Bosnia and Herzegovina**

### recommendations

- the authorities of Bosnia and Herzegovina to make every effort to complete the construction of the new forensic psychiatric institution as a matter of priority, in order to close down, as soon as possible, the current forensic psychiatric units at Sokolac Clinic and Zenica Prison (paragraph 115).

### requests for information

- on the facilities of the new “Special Hospital for Forensic Psychiatry” (in particular, living conditions, availability of premises for socio-therapeutic activities and recreation), the staffing arrangements (numbers and qualifications) and the envisaged treatment options (paragraph 115).

## **Social care homes**

### **Preliminary remarks**

#### recommendations

- the authorities of the Federation of Bosnia and Herzegovina to take vigorous measures to develop alternatives to institutional care, through the establishment of appropriate structures in the outside community (paragraph 117).

## **Living conditions, staffing and treatment**

### recommendations

- steps to be taken to provide all residents at the “Drin” Home for Mentally Disabled Persons with their own bed in distinct sleeping accommodation. In this context, the authorities of the Federation of Bosnia and Herzegovina should, inter alia, give a high priority to the completion of the new accommodation unit (paragraph 119);
- steps to be taken to improve the state of repair of the communal bathrooms in the main building of the “Drin” Home and to increase the number of shower heads in each bathroom (paragraph 119);
- the authorities of the Federation of Bosnia and Herzegovina to take steps to improve staffing levels at the “Drin” Home in the light of the remarks in paragraph 120, and in particular:
  - to further increase the number of ward-based staff (i.e. nurses and carers);
  - to increase the presence of a general practitioner (preferably to the equivalent of a full-time post)(paragraph 120);

- steps to be taken to significantly reinforce the psychiatric input at the “Drin” Home (to the equivalent of at least one full-time psychiatrist) (paragraph 120);
- staff at the “Drin” Home to be provided with further training and support to fulfil their duties professionally (paragraph 121);
- steps to be taken at the “Drin” Home to ensure that more residents benefit from psychosocial and occupational therapeutic activities adapted to their mental capacity and physical mobility (paragraph 122).

#### requests for information

- the comments of the authorities of the Federation of Bosnia and Herzegovina on the practice observed at the “Drin” Home of mixing mentally ill residents with the learning disabled (paragraph 123).

### **Means of restraint**

#### recommendations

- a central register to be created at the “Drin” Home, containing full information on every instance of the use of means of restraint (in particular, the times at which the restraint measure began and ended, the circumstances of the case, the reasons for resorting to the measure, the name of the doctor who ordered or approved it, and an account of any injuries sustained by residents or staff) (paragraph 124);
- a restrained resident not to be exposed to other residents, unless he/she explicitly requests otherwise or when the resident is known to have a preference for company (paragraph 124).

### **Placement procedures**

#### recommendations

- the relevant authorities to take the necessary steps to ensure that:
  - all decisions to place a person in a social care home involuntarily or at the instigation of a guardian are notified to a court, with a view to seeking the court’s approval for the placement;
  - the need for continued placement of a resident in a social care home is automatically reviewed on a regular basis(paragraph 126);
- the authorities of the Federation of Bosnia and Herzegovina to take steps to reorganise the system of provision of care to persons with mental disabilities, in the light of the remarks made in paragraph 127 (paragraph 127).

**APPENDIX II**

**LIST OF NATIONAL AUTHORITIES AND ORGANISATIONS  
WITH WHICH THE CPT'S DELEGATION HELD CONSULTATIONS**

**A. State Authorities**

**Ministry of Justice**

Bariša ČOLAK	Minister
Mustafa BISIĆ	Assistant Minister for the Execution of Criminal Sanctions

**Ministry of Human Rights and Refugees**

Salija DŽUDERIJA	Assistant Minister
Minka SMAJEVIĆ	CPT Liaison Officer

**Ministry of Security**

Dragan METKIĆ	Director, Service for Foreigners' Affairs
Adnan DLAKIĆ	Adviser
Mevludin DŽINDO	Adviser
Jasmin PLJEVLJAK	Adviser

**State Border Police**

Vinko DUMANČIĆ	Director
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**State Investigation and Protection Agency (SIPA)**

Nebojša PUŠARA	Inspector
Drako PAVLIĆ	Inspector

**B. Federation of Bosnia and Herzegovina**

**Ministry of Interior**

Elvedina HODŽIĆ	Executive Secretary of the Ministry
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**Ministry of Health**

Vesna ŽILJEVIĆ-SERTIĆ	Head of Legal Department
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**Ministry of Justice**

Hidajet TRAKO	Assistant Minister
Miralem DURANOVIĆ	Inspector

**Ministry of Labour and Social Affairs**

Miroslav MAUHAR	Head of Department
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**C. Republika Srpska**

**Ministry of Interior**

Stanislav CAĐO	Minister
Gojko VASIĆ	Director of Police
Zoran RENOVIĆA	Commander, Istočno Sarajevo Police Centre

**Ministry of Health and Social Welfare**

Nedeljko MILAKOVIĆ	Assistant Minister
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**Ministry of Justice**

Dzerard SELMAN	Minister
Duško ŠAIN	Head of Department
Nenad MIRKONJ	Prison Inspector

**D. Other authorities**

**Public Prosecutor of Republika Srpska**

Amor BUKIĆ	Chief Prosecutor
Miodrag BAJIĆ	Special Prosecutor for Combatting Organised Crime, Corruption and Commercial Crime
Vitomir SOLDAT	Chief District Prosecutor of Banja Luka

**Human Rights Ombudsmen of Bosnia and Herzegovina**

Jasminka DŽUMHUR	Ombudsman
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**E. International and Non-Governmental Organisations**

Representatives of the Helsinki Committee  
Representatives of the European Union Police Mission (EUPM)