

## **Response**

### **of the Government of Bosnia and Herzegovina to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Bosnia and Herzegovina**

**from 5 to 14 April 2011**

The Government of Bosnia and Herzegovina has requested the publication of this response. The report of the CPT on its April 2011 visit to Bosnia and Herzegovina is set out in document CPT/Inf (2012) 15.

Strasbourg, 26 April 2012



**CONTENTS**

|  |           |
|--|-----------|
| <b>Ministry of Justice - Pre-trial Detention Unit in the State-level Prison of Bosnia and Herzegovina.....</b> | <b>6</b>  |
| <b>Ministry of Security (Service for Aliens' Affairs) .....</b>  | <b>7</b>  |
| <b>District Prosecutor's Office of the Republika Srpska - Special Prosecutor's Office of Banja Luka.....</b>   | <b>9</b>  |
| <b>Istočno Sarajevo District Prosecutor's Office .....</b>   | <b>12</b> |
| <b>Ministry of Justice of the Federation of Bosnia and Herzegovina .....</b>                                   | <b>13</b> |
| <b>Ministry of the Interior of the Federation of Bosnia and Herzegovina .....</b>                              | <b>16</b> |
| <b>Ministry of Labour and Social Policy of the Federation of Bosnia and Herzegovina .....</b>                  | <b>18</b> |
| <b>Ministry of Justice of Republika Srpka.....</b>   | <b>21</b> |
| <b>Ministry of the Interior of the Republika Srpska - Criminal Police Administration.....</b>                  | <b>34</b> |
| <b>Ministry of Health and Social Protection of Republika Srpska .....</b>                                      | <b>36</b> |
| <b>Clinical Center of East Sarajevo - Sokolac Psychiatric Clinic.....</b>                                      | <b>37</b> |



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**BOSNA I HERCEGOVINA**  
Ministarstvo za ljudska prava i izbjeglice  
Bosne i Hercegovine



**BOSNIA AND HERZEGOVINA**  
Ministry of Human Rights and Refugees of  
Bosnia and Herzegovina

*Sektor za ljudska prava*  
*Human Rights Department*

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## **R E P O R T**

### **of 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**

After the periodic 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 and in pursuance of competences and responsibilities of the Ministry of Human Rights and Refugees we want to inform you that the **Report of the Committee for the Prevention of Torture was approved at the 165<sup>th</sup> meeting of the Council of Ministers of Bosnia and Herzegovina held on 26 October 2011**, when the Council of Ministers of BiH issued a **conclusion that orders authorities of Bosnia and Herzegovina to provide a response to CPT's recommendations, comments and requests for information within six months, giving a full account of actions taken to implement them.**

After having been approved by the Council of Ministers of Bosnia and Herzegovina, the Report of the Committee for the Prevention of Torture was transmitted to appropriate ministries and authorities of Bosnia and Herzegovina and Entities the CPT's Report having bearing on, for providing feedback and a response to CPT's queries, comments and requests for information.

Owing to the short deadline setting an obligation of Bosnia and Herzegovina to provide the report within six months of the date of receipt of the Report of the Committee for the Prevention of Torture, the liaison officer of BiH, i.e. of the Ministry of Human Rights and Refugees of BiH, asked in written the CPT Secretariat to advise of the date on which the deadline started running.

**The reply received from the CPT Secretariat stated that the deadline expires six months of the date of delivery of the Report to the Permanent Mission in Strasbourg and it was 20 July 2011, although the Ministry of Human Rights and Refugees of BiH cannot coordinate activities of appropriate ministries to which the Report is relevant until the Report is on the agenda of the Council of Ministers' meeting.**

Accordingly, the deadline for the report of Bosnia and Herzegovina to be submitted to the CPT Secretariat is 20 January 2012.

In order to timely deliver the report of BiH to the European Committee for the Prevention of Torture, after the adoption of the CPT Report by the Council of Ministers on 26 October 2011, the Ministry for Human Rights, with appointed representatives of relevant institutions in Bosnia and Herzegovina, held two working and consultative meetings, before sending this report of Bosnia and Herzegovina to the Council of Ministers for consideration and adoption.

**The last report/response to CPT's queries, comments and requests for information was submitted by the Ministry of Justice of the Republika Srpska to the Ministry for Human Rights and Refugees on 10 January 2012.**

Below are reports provided on CPT's queries, comments, recommendations and requests for additional information by the following ministries and institutions of Bosnia and Herzegovina and Entities:

- Ministry of Justice of Bosnia and Herzegovina,
- Ministry of Security (Service for Aliens' Affairs),
- District Prosecutor's Office - Banja Luka Special Prosecutor's Office Banja Luka
- Istočno Sarajevo District Prosecutor's Office,
- Ministry of Justice of the Federation of Bosnia and Herzegovina,
- Ministry of Internal Affairs of the Federation of Bosnia and Herzegovina,
- Ministry of Labour and Social Security Policy of the Federation of Bosnia and Herzegovina,
- Ministry of Justice of the Republika Srpska,
- Ministry of Internal Affairs of the Republika Srpska – Criminal Police Administration,
- Ministry of Health and Social Security of the Republika Srpska,
- Clinical Centre of Istocno Sarajevo - Sokolac Psychiatric Clinic.

With regard to allegations under paragraph 19 of CPT's Report that "The CPT's delegation received many complaints about the quality of the advice provided by *ex officio* lawyers and it 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 Ministry of Human Rights and Refugees sent a letter with CPT's recommendations to the attention of the Bar Associations of the Federation of Bosnia and Herzegovina and the Republika Srpska.

#### **Ministry of Justice - Pre-trial Detention Unit in the State-level Prison of Bosnia and Herzegovina**

Acting upon the Report 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 respecting the situation of the Pre-trial Detention Unit in the State-level Prison of Bosnia and Herzegovina, we want to point out the following:

"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 (paragraph 54)."

According to the above, 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.

Acknowledging the need for improving radically out-of-cell activities for detainees, the Management of the Pre-trial Detention Unit makes every possible effort with a view to meeting the objective referred to in paragraph 53, which is especially shown in the fact that detainees spend a large portion of the day outside their individual cells, socializing with other detainees in the library or the courtyard of the Pre-trial Detention Unit, as well as that they have daily access to an equipped gym.

It should be noted that the Pre-trial Detention Unit is a pre-fabricated temporary building, which does not allow for an opportunity to organize occupational activities of detained persons, recognizing the length of their stay.

We believe that with the completion of construction of state prison in Bosnia and Herzegovina, whose construction should be completed in 2013 according to the schedule, activities of detained and imprisoned persons outside cells will be fully performed in accordance with the standards under paragraph 53.

### **Ministry of Security (Service for Aliens' Affairs)**

The CPT's Report states that the delegation received hardly any allegations of ill-treatment by staff in the Centre, where the vast majority of beneficiaries interviewed stated that they were treated correctly and that the atmosphere between staff and beneficiaries was relaxed and in accordance with standards.

It notes that the material conditions in the Centre were generally very good, that rooms were of reasonable size and that the male, female unit and family suites met all standards for beneficiaries.

The beneficiaries had access to the courtyard throughout the day, a satellite television between 9 a.m. and 10.30 p.m., as well as to various books, magazines and newspapers. Sport activities were organised in the sports ground within the Immigration Centre on a daily basis.

It notes that the regime, on the whole, is acceptable, access to care seemed to be adequate, the medical files were properly kept and all incidents recorded.

Contacts with the outside world were satisfactory, there were no restrictions on making or receiving telephone calls and efforts were made to make the visiting area more child-friendly. The number of custodial and administrative staff was satisfactory.

There are no serious objections about the Centre in the Report; only recommendations for individual segments of operation were given:

Recommendation 1:

**- Avoid, as far as possible, detaining families with children. Further, unaccompanied minors should not be detained in the Lukavica Centre.**

Detaining families with children lasts minimum period of time (15 days) and unaccompanied minors have never been detained in the Lukavica Centre.

Recommendation 2:

**The authorities of Bosnia and Herzegovina are urged to introduce a maximum time-limit for the detention of foreign nationals under aliens legislation;**

Amending of the Law on Movement and Stay of Aliens and Asylum of BiH is in progress and the Law will be brought in line with European Directive 2008/115 providing for a maximum time-limit for the detention of foreign nationals of 180 days.

Recommendation 3:

**- 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.**

The “Fondacija Inicijativa Zena” NGO has been included in the work of the Immigration Centre to expand the activities (educational, occupational, recreational), the male unit receiving psychosocial support and female and family units having mini-workshops.

Recommendation 4:

**- 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.**

The health-care unit has taken a more proactive approach towards beneficiaries of the Centre and even specialists’ services are provided. We want to inform you that the Ethiopian beneficiary has been given neuropsychiatric treatment by “La Vitae” Specialised Clinic and psychosocial assistance by “Fondacija Inicijativa Zena” NGO.

Recommendation 5:

**- The CPT recommends that persons facing disciplinary charges be formally guaranteed the rights. Further, the disciplinary procedures should be explained clearly in the relevant House Rules.**

Disciplinary and damage responsibility of beneficiaries of the Immigration Centre and the institution of disciplinary proceedings are provided for in Article 43 and 44 and 45 of the Centre’s House Rules respectively. The disciplinary proceedings are elaborated in the House Rules, which address all elements of your recommendation and are available to all beneficiaries.

Recommendation 6:

**- Improvement in the provision of information to detained foreign nationals and in access to free legal aid.**

The Service for Aliens' Affairs has contracted with the following NGOs:

- a) Foundation of Local Democracy and
- b) Vasa prava

to provide legal aid. So the beneficiaries have free access to legal aid and are given leaflets about this and all information about legal aid when they come to the Immigration Centre.

Recommendation 7:

**- The CPT recommends that the persons detained for 22 months or longer 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.**



Individuals detained in the Centre for a long period of time are allowed to be visited by family members 2-3 times a week for two hours. These individuals are the individuals who filed applications with the European Court of Human Rights in Strasbourg. The ECtHR has already decided one case – Alhanchi Ammar, a Tunisia national, against Bosnia and Herzegovina – in favour of Bosnia and Herzegovina.

### **District Prosecutor's Office of the Republika Srpska - Special Prosecutor's Office of Banja Luka**

In their report, the District Prosecutor's Office of the Republika Srpska (Special Prosecutor's Office for Organised Crime and Most Serious Corporate Crimes) makes a reference to page 12 of the report of CPT's delegation, which reads that the CPT also heard about several serious allegations of ill-treatment made by a group of persons suspected of involvement in a kidnapping case. The allegations of ill-treatment were made against the investigators of the Special Prosecutor and crime inspectors and included blows to the body with truncheons and a baseball bat, the placing of a plastic bag over the head and the infliction of electric shocks with a hand-held device.

A case of Š.I. D.B. M.Ž. DŽ.D. Š.R. and F.S., who are charged with organized crime in combination with kidnapping and other criminal offences in indictment No. KT ST-23/10 dated 2 February 2011 filed by the Special Prosecutor's Office of Banja Luka, is pending before the District Court of Banja Luka.

The police apprehended DŽ.D. on 6 October 2010 at 6 p.m. On 7 October 2010 at 6 p.m. he was handed over to the Special Prosecutor's Office and interrogated as a suspect of having committed the crime charged. While interrogated, DŽ.D. alleged that he had been tortured by investigators of the Special Prosecutor and crime inspectors and had sustained bodily injuries as a result. Having heard that, the Special Prosecutor immediately ordered a medical examination. He made the allegations of ill-treatment against the investigators of the Special Prosecutor and crime inspectors again during the trial on 8 October 2010. The judge ordered the judicial police to take DŽ.D. for a medical examination. Upon the completed examination, DŽ.D. was issued medical records. The court informed in writing this Prosecutor's Office about his complaint. The complaint was registered as a separate criminal case in the Special Prosecutor's Office, after which information was collected and all necessary actions were taken in order to verify the allegations. By order of the Prosecutor's Office, an independent forensic opinion was given. The opinion was given based on medical records made during the medical examination of DŽ.D. After the examination of documents, the expert produced an opinion and findings concluding that the DŽ.D. had been found to have sustained an injury, an abrasion in the area of left knee. In the opinion of the expert, it is a nonspecific injury that could have resulted from the work of different agents. This injury could in no way be linked to the alleged ill-treatment described by DŽ.D. (the alleged blows on the body with batons and baseball bat, putting plastic bags on the head and causing electric shocks with a hand-held device). The fact is that DŽ.D. saw the prison doctor and that the doctor recorded light bodily injuries in the medical records of the Correctional Institution of Banja Luka on 11 October 2010, which was 3 days after apprehension and stay in the detention unit, and then on 8 November 2010 and on 3 December 2010. Given DŽ.D. was examined on 8 October 2010 by a doctor and on 9 October 2010 by the prison doctor on admission to the detention facility, when the injuries did not exist, it is obvious that these injuries could have not been sustained during apprehension and questioning by the police and prosecution. investigators.

For these reasons, this Prosecutor's Office did not issue an order to investigate the reported abuse of D.Ž. because there were no grounds for suspicion/evidence that the persons reported committed the criminal offense.

The police apprehended D.B. on 9 October 2010 at 12 a.m. On 10 October 2010 at 12 a.m. he was handed over to the Special Prosecutor's Office and interrogated as a suspect of having committed the crime charged. While interrogated, D.B. alleged that he had been tortured by investigators of the Special Prosecutor and crime inspectors and had sustained bodily injuries as a result. For this reason, the judge ordered the judicial police to take D.B. for a medical examination. Upon the completed examination, D.B. was issued medical records. The court informed in writing this Prosecutor's Office about his complaint. The complaint was registered as a separate criminal case in the Special Prosecutor's Office, after which information was collected and all necessary actions were taken in order to verify the allegations. By order of the Prosecutor's Office, an independent forensic opinion was given. The opinion was given based on medical records made during the medical examination of D.B. After the examination of documents, the expert produced an opinion and findings concluding that the D.B. had not been found to have sustained any injuries. Besides this, this Prosecutor's Office received his medical records and documentation from the Correctional Institution of Banja Luka which show that D.B. was examined on admission on 11 October 2010 by the doctor who noted that he had not had any injuries, haematomas or lacerations.

For these reasons, this Prosecutor's Office did not issue an order to investigate the reported abuse of D.B. because there were no grounds for suspicion/evidence that the persons reported committed the criminal offense.

The police apprehended M.Ž. on 9 October 2010 at 10.45 p.m. On 10 October 2010 at 10.45 p.m. he was handed over to the Special Prosecutor's Office and interrogated as a suspect of having committed the crime charged. While interrogated, M.Ž. said that he had no complaints against investigators of the Special Prosecutor or crime inspectors. When he was pleading on the order for pre-trial detention, M.Ž. did not allege any abuse. However, six months after his apprehension, on 31 March 2011, for the first time, he alleged before the Court that he had been tortured by investigators of the Special Prosecutor and crime inspectors. The complaint was registered as a separate criminal case in the Special Prosecutor's Office. Collecting information about these allegations, this Prosecutor's Office received M.Ž.'s medical records and documentation from the Correctional Institution of Banja Luka and the prison doctor was ordered to give an opinion in written of the health condition of M.Ž. at the time of admission into the detention facility. The medical documentation shows that M.Ž. was examined on admission on 11 October 2010 by the doctor who did not note any injuries. The 6 September 2011 letter of the Medical Unit of the Correctional Institution of Banja Luka states that M.Ž. was brought in the Correctional Institution on 11 October 2010 at 10.45 p.m. and he was examined on 12 October 2010 in the morning. It was noted that he had not complained of ill-being and he had been in good health condition.

For these reasons, this Prosecutor's Office did not issue an order to investigate the reported abuse of M.Ž. because there were no grounds for suspicion/evidence that the persons reported committed the criminal offense.

The police apprehended Š.R. on 10 October 2010 at 3 p.m. On 11 October 2010 at 3 p.m. he was handed over to the Special Prosecutor's Office and interrogated as a suspect of having committed the crime charged. While interrogated by the Special Prosecutor, Š.R. did not make any allegations of abuse nor did he do it before the Court when he was pleading on the order for pre-trial detention. However, six months after his apprehension, on 31 March 2011, for the first time, Š.R. alleged before the Court that he had been tortured by investigators of the Special Prosecutor and crime inspectors. The complaint was registered as a separate criminal case in the Special Prosecutor's Office. Collecting information about these allegations, this Prosecutor's Office received Š.R.'s medical records and documentation from the Correctional Institution of Banja Luka and the prison doctor was ordered to give an opinion in written of the health condition of Š.R. at the time of admission into the detention facility. The medical documentation shows that Š.R. was examined on admission by the doctor who did not note any injuries. The 6 September 2011 letter of the Medical Unit of the Correctional Institution of Banja Luka states that Š.R. was brought in the Correctional Institution on 11 October 2010 at 10.50 p.m. and he was examined on 12 October 2010 in the morning. It was noted that he had not complained of ill-being and he had been in good health condition.

For these reasons, this Prosecutor's Office did not issue an order to investigate the reported abuse of Š.R. because there were no grounds for suspicion/evidence that the persons committed a criminal offense.

The Special Prosecutor's Office of Banja Luka has attached with the report an order for not conducting investigation in the above-mentioned cases designated under number KTA - ST, findings of the expert of the Forensic Institute of the Republika Srpska and medical records of Correctional Institution of Banja Luka in all individual cases. This extensive documentation could not be translated due to time constraints and if needed by the CPT Secretariat, it will be delivered subsequently.

Further, the Special Prosecutor's Office of Banja Luka calls upon paragraph D of CPT's Report related to the cooperation between CPT and Bosnia and Herzegovina authorities and CPT's statement that on 8 April 2011 the CPT delegation could not access the holding cells located in the Office of the Special Prosecutor for Organised Crime in Banja Luka because the duty investigator and superior officers claimed to have no knowledge of the Committee's visit and the situation was resolved the following day and a visit to the cells was carried out.

In order to avoid such problems and ensure transparent access of CPT delegations to all locations / facilities where people are detained against their will, at the proposal of a representative of the Special Prosecutor's Office of Banja Luka, which was supported by all representatives of BiH institutions involved in drawing up the report to be sent to CPT, for the next visit of CPT to Bosnia and Herzegovina, the Ministry of Human Rights and Refugees would enter in their accreditations the identification data which would undoubtedly indicate the identity of the members of delegation (passport number, etc.) and the name of contact person of the Ministry of Human Rights and Refugees who could serve as a focal point for verification of the accreditation by lower-ranking officers of institutions in BiH, in order to avoid problems like this one and in order for Bosnia and Herzegovina to meet its international commitments and to maintain the level of security at the maximum level.

### **Istočno Sarajevo District Prosecutor's Office**

In accordance with the report 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 (hereafter: the Report), the Istočno Sarajevo District Prosecutor's Office was requested to give information about investigations of cases mentioned in paragraphs 8(i) and 8(ii) of the Report.

Paragraphs 8(i) and 8(ii) of the Report allege two cases of abuse of person who were arrested on 25 March 2011 and 27 March 2011 in Istočno Sarajevo Police Station.

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.

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".

In both cases, the duty prosecutor ordered for investigative actions in these cases that are registered in the Prosecutor's Office as a single case against unknown perpetrators.

In the course of investigation, all medical records have been collected and statements were taken from all persons whose statements could substantiate or refute allegations of injuries sustained by arrested persons.

A memorandum was sent to the Ministry of Internal Affairs of the Republika Srpska - Center of Istocno Sarajevo Public Security to require further information for clarifying the circumstances of this incident and detection of the perpetrators of this crime.

As the investigation is carried on against officers of the Centre of Public Security of Istocno Sarajevo, the Prosecutor's Office asked assistance in the collection of necessary information and contacted the Ministry of Internal Affairs of the Republika Srpska - the Special Investigation Unit and the Professional Standards Unit with a view to discovering perpetrators of the criminal offense.

Given the investigation in this case is still ongoing, we believe that it is still early to talk about the outcome of the investigation in these cases. This is primarily because all the required information has not been gathered yet, and only once it happens the Prosecutor's Office will be able to decide whether the criminal offence was committed and on prosecution of the perpetrators of this crime.

### **Ministry of Justice of the Federation of Bosnia and Herzegovina**

With regard to the letter of the Ministry of Human Rights and Refugees No. 01-37-3842-1/11 dated 23 September 2011 concerning the report 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, we are sending the following answers to the queries sent:

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

The decision of the Federation Minister of Justice No. 04-49-3272/11 dated 8 September 2011 appointed a commission to draft the Law on Execution of Criminal Sanctions in the Federation of Bosnia and Herzegovina. The Commission is composed of seven permanent members who are representatives of the Ministry and correctional institutions and four occasional members depending on the nature of the matter discussed. The deadline for the first draft of the Law on Execution of Criminal Sanctions was 15 November 2011. The Commission completed the first draft of the Law on Execution of Criminal Sanctions. Currently an analysis of materials for the upcoming procedure is under way.

#### **High-security units and heightened supervision (with intensive treatment) (paragraph 35)**

In our jargon we call this unit "IV Pavilion". Provisions of Article 1 of the Instructions with the Criteria of Disposing, Placement and Transfer of Sentenced Persons in Correctional Groups (kolektivi) in Zenica Prison No. 01-12-640710 dated 12 July 2010 regulate the procedure of disposing and placement of convicted persons from the Admission and Observation Department into correctional groups in "IV Pavilion" of Prison and the procedure of transfer of already disposed and placed convicted persons, who are serving prison sentences, to other correctional groups. Moreover, apart from provisions of Article 2 of the Instructions which defines the basic criteria for disposing, placement and transfer of sentenced persons in correctional groups, provisions of Articles 4(6)(b) (c) (d) of the Instructions set forth criteria for the disposing, placement and transfer of sentenced persons in correctional groups of the "IV Pavilion" in which the following inmates are disposed, placed and transferred:

- Convicted persons who substantially jeopardize security of the prison, health and lives of people in the prison and outside it while serving a prison sentence, constantly violating order and discipline as well as the convicted persons who are found to not have been responsive to any previous actions taken and contemporary correctional measures against them have been unsuccessful;
- Convicted persons whose behavior in the prison and outside indicates that they are performing and organizing actions that have features of a crime;
- Convicted persons who need intensive individual treatment.

The Federation Ministry of Justice has accepted the recommendation to take the necessary steps to provide a clear legal basis, with appropriate safeguards and defined process of assessment, for the placement of a prisoner in a high-security unit, that is “IV Pavilion”, by taking the following activities:

- Defining a legal basis in the new Law on Execution of Criminal Sanctions;
- Giving an opportunity to prisoners to express his/her views, after having been informed in writing of the reasons for the measure, withholding from the prisoner specific details related to security;
- Reviewing the placement of a prisoner in a high-security department on a quarterly basis;
- Giving an opportunity to prisoners to appeal against the imposition or extension of a placement in a high-security department;
- Defining a legal basis in the new Law on Execution of Criminal Sanctions.

**That steps be taken to provide prisoners placed in high-security units with a purposeful regime, which includes a diverse range of activities (paragraph 39).**

The Management has taken steps to provide prisoners placed in “Pavilion IV” with a partly purposeful regime of serving a sentence involving some occupational activities and spending time as much as possible outside the cell, doing additional daily activities and sports. Besides the already constructed walking paths with benches, a basketball court, table tennis, an outdoor chess set with the board, overhangs to shelter in case of rain have been built, fitness equipment has been bought and a fitness room and a computer room have been constructed and equipped.

In the future we will cooperate with the Zenica Prison Management to introduce structured counseling and other forms of psychosocial support clearly designed to overcome and resolve the causes that led to placement in the unit.

**Staffing - a need to reinforce the treatment department (14 educators and one psychologist for more than 750 inmates) (paragraph 46).**

The total number of staff in Zenica Prison is 423, including 27 employees in the Correctional Treatment Department. This number includes 14 educators and one psychologist. However, the Correctional Treatment Department also employs two social workers, then an employee and an officer in charge of cultural and educational activities, the head of the Reception Department and assistant director in charge of correctional treatment and 6 other employees who perform other tasks related to correctional treatment. It should also be noted that resocialization of convicted persons include both occupational instructors who work directly with convicted persons and teachers of primary and secondary schools who teach the convicted persons in prison facilities. According to the 2012 financial plan the number of employees should increase by 50.

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

In order to solve problems related to the execution of detention orders (mjere sigurnosti - security measures) until a special hospital in Sokolac has begun operating, the Federation Ministry of Justice sent a letter to the Cantonal Hospitals in Travnik, Bihac, Zenica, Clinical Center of Sarajevo University, Clinical Center and Hospital in Mostar and the University Clinical Center of Tuzla. The letter under number 01-49-4210/11 dated 18 November 2011 requested a response to a query whether the health facilities have a closed psychiatric ward in which forensic patients would be placed according to their domicile and to offer a price on a daily basis for such patients.

The Clinical Center of Sarajevo University sent letter No. 16-707/11 dated 30 November 2011 with a response that the psychiatric clinic can provide a double room for patients from Sarajevo Canton. Clinical Center and Hospital in Mostar expressed willingness to help addressing the problem by refurbishing some of the current premises of the Psychiatric Clinic to make them the Department of Forensic Psychiatry, stating that a preliminary design with a bill of quantities has been prepared.

Once we get feedback from the University Clinical Center of Tuzla we will make a research into the current situation and possibilities of placing these persons until the beginning of a special hospital in Sokolac.

With regard to problems of the Forensic Psychiatric Annexe activities will be channelled as required in the coming period on the following:

- to improve the health care conditions and staffing levels of employees who work with the inmates;
- to provide psychosocial therapy and other types of activities appropriate for the inmates;
- to convert a part of staff's premises into living premises of the inmates (**paragraph 111**).

In the coming period the Federation Ministry of Justice will take actions 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 patients who no longer require hospitalisation are able to be effectively discharged into the community and do not remain hospitalised longer than absolutely necessary instead (**paragraph 112**).

Three forensic psychiatric patients from FPA were placed in Pavilion VI where the medical service is stationed and they will be returned to the forensic ward when their psychiatric condition is stabilized, which will be reasoned by the prison medical service (**paragraph 112**).

In the Federation, when it comes to minors within the jurisdiction of the Federation Ministry of Justice, we can note that in the previous period significant measures were taken to overcome difficulties with accommodation for minors in conflict with the law.

This especially goes for the **Correctional Education Home of Tuzla Prison**, which is currently part of Tuzla Prison as a temporary solution to accommodate juveniles convicted to committal to CEH. There are 16 juveniles serving the correctional measure of committal to CEH currently, while the official capacity of the CEH is 15 minors respecting the standard of 4 square meters per a juvenile.

The FBiH Government has appropriated funds for the construction of the **Correctional Education Home in Orasje** that will meet all required standards in terms of accommodation and social reintegration of juveniles. Two phases of construction have been completed and, according to the schedule of works, the CEH should be completed in May next year. The CEH will have the capacity of 50 juveniles / males / females / having received a measure of committal to CEH.

### **Ministry of the Interior of the Federation of Bosnia and Herzegovina**

Fulfilling its obligations the Ministry of the Interior of the Federation of Bosnia and Herzegovina compiled individual reports of Cantonal Ministries of the Interior respecting the recommendations, comments and requests from the report in question. We are submitting the following consolidated briefing paper of the Cantonal Ministries of the Interior and the Federation Police Administration.

During its visit to Bosnia and Herzegovina in April 2011, a delegation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) visited the Cantonal Ministries of the Interior and the Federation Police Administration.

The delegation visited remand sections of Sarajevo Centar Police Station and Novo Sarajevo Police Station within the Ministry of the Interior of Sarajevo Canton. While visiting the former (Sarajevo Centar Police Station), the delegation found a 70 cm club made of wood and a hatchet in room 23. They found one rifle and one club involved in a criminal case in the First Police Administration Criminal Unit premises.

The CPT delegation was explained the origin of these articles and how they got there. After the recommendation the articles were deposited in appropriate places in accordance with the usual practice as required by regulations. The delegation also visited the Remand Section where they inspected the records and did not find any irregularities. The delegation was interested in health care provided to people in custody in particular and made a tour of cells in the Remand Section inquiring about the capacity.

Acting in accordance with the guidelines of CPT, in meetings with police officers, the Commissioner of the Posavina Canton Ministry of the Interior points to the legality and professionalism of police officers in treating persons who are kept in detention. Any complaints, including complaints of persons deprived of liberty, will be subject to independent internal investigation by the Professional Standards Unit. The Posavina Canton Ministry of the Interior has tightened the criteria for selecting new police officers and has included, in regular annual plans and programs, courses of training in the protection of human rights and freedoms with a focus on the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and consistently applies instructions for dealing with persons deprived of liberty. Remand prisoners fully exercise all statutory rights including the right to inform close relatives or third parties and the right to a lawyer from the moment of detention.

Health care is provided whenever necessary and when a detainee requests it. Medical examinations are carried out in private and the examination findings, statements of the detainee and the doctor's opinion are recorded in writing and available to the detainee and his lawyer. Records of persons deprived of liberty are kept and police stations have detention facilities that meet standards.



All unlabelled items such as “baseball bats, shotguns, hunting knives, crowbars and metal piping”, if any, will be removed from interrogation rooms and inspector’s offices. The time of arrest will be counted as the beginning of the period of police detention and not the time of admission into the detention facility instead, as recommended in the CPT report.

Regarding the CPT report, the Tuzla Canton Ministry of the Interior informed that during apprehension of persons who have committed a crime, the police officers act in accordance with the law, the European Convention on Human Rights and other applicable regulations. A person deprived of liberty is brought before a prosecutor within 24 hours and various techniques and taking statements that are in accordance with human rights, precluding any inhuman or degrading treatment of persons deprived of liberty, are used in questioning. The offices of investigators who conduct the investigation are used because the Tuzla Canton Ministry of the Interior do not have separate offices or rooms for questioning, so in the future the Tuzla Canton MoI will equip one or more rooms for questioning. While questioning persons detained, police officers do not use and do not apply force or any other prohibited items or means. The suspect has the right to access his counsel and to inform the family about his situation from the outset of deprivation of liberty by the police. The Tuzla Canton Ministry of the Interior and some Police Administrations have detention units for police detention for 24 hours and all these facilities meet statutory requirements. Based on the recommendations of the CPT, the Tuzla Canton Ministry of the Interior recruits new officers through open competition and strict criteria for selection and regularly sends police officers to attend special seminars to update their knowledge and skills.

Given the Herzegovina-Nertva Canton Ministry of the Interior did not submit comments on the Report, the Federal Police Administration police officer in charge discussed it with the Commissioner and, on the basis of information obtained in connection with the allegations in the Report pertaining to particular Police Administration of the Ministry of the Interior, made an official note. The data from the official note is here in its entirety to be incorporated in the consolidated report of Bosnia and Herzegovina.

Specifically, as the Commissioner of the Herzegovina-Nertva Canton Ministry of the Interior said, he is familiar with the CPT Report and the comments concerning the Herzegovina Nertva Canton Ministry of the Interior, namely the bad condition of holding cells in Konjic and Mostar Police Stations. The Commissioner informed the Herzegovina-Nertva Canton Minister of the Interior about the allegations in the Report and he said that in the future, depending on financial resources, the detention facilities in Konjic and Mostar Police Stations would be brought to a satisfactory level.

Examining the Report of the European Committee for the Prevention of Torture (CPT), the Ministry of the Interior of Bosnia-Podrinje Canton, the Ministry of the Interior of Una-Sana Canton, the Ministry of the Interior of Zenica-Doboj Canton, the Ministry of the Interior of Middle Bosnia Canton and the Federation Police Administration did not find any objections to the work of these police agencies, with respect to the subject visit and verifications by the CPT delegation.

## **Ministry of Labour and Social Policy of the Federation of Bosnia and Herzegovina**

The Ministry of Labour and Social Policy of the Federation of Bosnia and Herzegovina is submitting the following observations on CPT's recommendations and comments:

### **Social care homes – a visit to Fojnica “Drin” Home for Mentally Disabled Persons**

#### **1. Introduction**

Recommendations set forth in paragraphs 116 and 117 include taking measures to develop alternatives to institutional care, through the establishment of appropriate structures in the outside community.

The reform processes in the field of social protection related to social care homes include deinstitutionalization and transformation of existing social care homes, especially for care of mentally disabled persons. The Government's commitment is to provide people who are placed in social care homes with community care by restructuring the existing system and increasing the number of social care services and improvement of service quality.

For the implementation of priority projects relating to deinstitutionalization and transformation of social care homes, inclusion, employment, vocational training and rehabilitation of persons with disabilities, the Federation of Bosnia and Herzegovina has initiated and established cooperation with the Governments of the Czech Republic and Austria.

Integrating in a system of good practices models, which are developed through projects and activities of nongovernmental organizations, creates conditions for the integration and rehabilitation of persons with disabilities. One of more recent examples of good practice is giving support to people with intellectual disabilities to empower them to live in community through the “SUMERO Citizens' Association Support Center to People with Disabilities in the Community.” Such projects of NGOs, which are implemented in cooperation and with support of the governmental sector, create conditions for transforming institutions in order to ensure prevention through placement of persons with disabilities in social care homes.

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

- Recommendations set forth in paragraphs 119 and 120 include the need to take measures to improve living conditions and staffing levels at the “Drin” Home.

The Federation Ministry of Labour and Social Security Policy initiated drafting of the Rules on Minimum Standards in terms of space, equipment and professional staff needed for providing services in social care homes in the Federation of Bosnia and Herzegovina. The Minimum Standards will provide the optimal housing conditions and create a more humane environment for individuals and for organized activities, as well as conditions of employment of adequate and qualified staff.

Specifically, when it comes to the recommendation related to improving conditions in communal bathrooms in the main building of the “Drin” Home, specific steps have been taken. Two bathrooms have been refurbished, one more shower head having been installed in each bathroom, and two toilets have been refurbished. In accordance with possibilities of the “Drin” Home, these actions will be continued until the situation will be adequate/standards have been met.

As for the professional staff, after the visit by the CPT delegation, the “Drin” Home hired three new social workers, a psychologist, a sports instructor-therapist, a pharmacist and four nurses.

Also, after providing space for a neuropsychiatrist’s surgery, the “Drin” Home will employ a full time neuropsychiatrist.

- Paragraph 121 recommends that staff at “Drin” be provided with further training and support to fulfil their duties professionally.

The Rule Book on Minimum Standards on Space, Equipment and Necessary Professional Staff and Services in Social Care Homes of the Federation of Bosnia and Herzegovina will set forth so-called functional standards to regulate an obligation of the institution to make an annual training plan for staff in the next year.

The "Drin" Home has made a series of contacts regarding preparations and consultations on development of training project for staff working directly with beneficiaries. The partner is a Dutch institution, s’Heeren Loo, whose activity is supporting people with intellectual disabilities and in its own country it provides support to 8,000 people. Bearing in mind that this is one of the most respected institution in the Netherlands with great experience, expectations are high. The project is currently waiting for the support of competent body of the Kingdom of the Netherlands and full support has been given by the Ministry of Education of the Federation of Bosnia and Herzegovina. A training cycle would last one year.

- Paragraph 122 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.

Regarding this we are informing you that in the past two years the number of beneficiaries who are covered by some or another form of occupational treatment increased. The newly built residential unit has five fully equipped workshops which will allow an additional number of beneficiaries to join psychosocial and therapeutic activities once they become operational.

- Paragraph 123 requires our comments on the practice of mixing mentally ill residents with the learning disabled.

There are cases of mixing mentally ill residents with the learning disabled in the main building of the “Drin” Home. There are thirty people with intellectual disabilities who are placed in wards with mentally ill residents and vice versa.

The main reason for this situation is the practice 7 years old, since the time when “Drin” Home did not have qualified staff who would receive, assess and place beneficiaries following proper procedures. The number of beneficiaries in question was much higher, but expert team of the “Drin” Home makes efforts to improve the situation. In due course, making the newly constructed residential units operational and leasing additional residential buildings, the “Drin” Home will solve this problem completely.

### **3. Means of Restraint**

- Paragraph 124 recommends a central register to be created at the “Drin” Home, containing full information on every instance of the use of means of restraint and 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.

Following the recommendation a central register has been created by 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, monitoring physical indicators during the use of means of restraint, therapy etc. Efforts are made that a restrained resident is not 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**

- Paragraphs 125 and 126 recommends 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 and that the need for continued placement of a resident in a social care home is automatically reviewed on a regular basis.

Social care homes for people with intellectual disabilities provide care and accommodation for people with intellectual disabilities and they are not medical institutions for compulsory detention of people with severe mental disabilities, in accordance with the Law on Protection of Persons with Mental Disorders.

Grounds for the placement of individuals in a social care home are a decision of the competent authority of social welfare which refers an individual for care and placement in a social care home on the basis of the relevant Law on Social Protection, rather than on the involuntary placement of mentally ill persons. In addition, at a beneficiary’s own request or a request of the social care home, the authority of social welfare issues a decision on the termination of the right to placement in a social care home.

Bearing in mind that these recommendations imply amending of the Law on Non-contentious Procedure of the Federation of BiH regulating the procedure of keeping mentally ill people in a medical institution and not in a social care home, as well as possible amending of the Law on Protection of Persons with Mental Disorders which does not govern the matter of persons with mental disabilities placed in social care homes, an activity to involve relevant ministries to address this issue with respect to the recommendations has been launched.

- Paragraph 127 recommends that the authorities of the Federation of Bosnia and Herzegovina should review the current approach to 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.

This recommendation urges 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 so that there should be a national plan for mental health services which addresses the challenges faced by psychiatric institutions and social care homes and to develop a process of de-institutionalisation (e.g. community mental health centres and community group homes).

The mental health policy document of the Federation of Bosnia and Herzegovina is in the process of adoption. Services in the field of mental health care are provided through a network of 31 centers for mental health in the Federation of Bosnia and Herzegovina. The system of providing mental health services in the community does not include enough supporting services/ alternative services in the field of mental health such as beneficiaries' organizations, day centers, safe apartments, emergency telephones etc.

In spite of the significant progress, services in the field of mental health are still not able to meet the needs of the population, especially for long-term beneficiaries who need more support, with a focus on treatment that emphasizes rehabilitation and resocialization of this group of beneficiaries. The authorities show good will to continue the reforms in the field of mental health.

### **Ministry of Justice of Republika Srpska**

With regard to the report on the visit to Ministry of Justice of Republika Srpska and prisons in Republika Srpska 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 we are giving answers to comments and recommendations made by CPT.

We also want to inform you that the Ministry of Justice transmitted a copy of the report immediately upon receipt to Banja Luka Prison, Doboj Prison, Istočno Sarajevo Prison and Foča Prison for comments so this report is a joint effort of the prisons visited and the Ministry of Justice of Republika Srpska.

Comments on the report are given following paragraphs that deal with specific comments or recommendations, as follows.

#### **Paragraph 30**

Pursuant to Article 69 of the Rule Book on Security Services, Weapons and Equipment, Use of Firearms and Other Coercive Measures, Labeling of Equipment and Vehicles in Penitentiaries of the Republika Srpska (RS Official Gazette 38/11), security officers (i.e. prison guards) in Banja Luka Prison used means of restraint three times in 2010 and 2011: twice and once, respectively.

With regard to a few allegations of ill-treatment and alleged ill-treatment of a detainee that took place at the beginning of March 2011 (subjected to punches, kicks and blows with batons), as cited in paragraph 29, we think that the allegations are not true. Nevertheless, with a view to having better insight in the information given in the report, Banja Luka Prison appointed an internal committee which took into account all relevant facts (medical findings and official statements of prisoners and other material) and found that during 2010 and 2011 officers in Banja Luka Prison did not use means of restraint in contravention of legislation of the Republika Srpska. Any use of means of restraint was reported, a conclusion on the justification of the use of means of restraint was issued and all documentation was attached for the Ministry of Justice of Republika Srpska to assess the justification of the use of means of restraint.

Based on the above we can conclude that in 2010 and 2011 the security officers in Banja Luka Prison used the means of restraint in accordance with statutory powers in order to maintain order and security in the Prison.

Also, it can be concluded that they used means of restraint only when necessary to overcome the active and passive resistance of persons deprived of liberty in proportion to the threat.

In line with this we want to inform you that all persons deprived of liberty can request a medical examination every day, and all persons who are placed in solitary confinement or in a separate room, as well as those to whom the measure of isolation has been imposed are examined prior to placement in the premises and visited every day by a medical worker.

In accordance with the recommendations, these examinations will in future be registered in the records of persons deprived of liberty.

### **Paragraph 31**

Article 7, paragraph 1 of the Law on Execution of Criminal Sanctions of the Republika Srpska ("Official Gazette of the Republika Srpska " 12/10), provides that prisoners serve sentence together, while the second paragraph of the same article determines in which cases it can be determined that prisoners serve sentence individually and separately from other prisoners and the reasons cited can be safety, health, personal traits of the convicted person etc. Pursuant to the provision, Foca Prison places inmates in 11 correctional collectives in the high-security unit of the Prison and in the "Ekonomija" correctional medium security collective. Each of the correctional collectives has common toilets and bathrooms and bedroom doors must be unlocked at night so that all the prisoners from the collective had unrestricted access to water and sanitary facilities. Officers of Foca Prison make significant efforts to discover all instances of intimidation and harassment among inmates so that they can prevent any physical conflicts in a timely fashion. We can cite the fact that during 2011 the number of quarrels and fights and physical confrontations between prisoners reduced significantly in relation to earlier periods as a result of these efforts. So in the first nine months of 2011 a total of 12 conflicts, of which 5 ones were brawls and others were verbal conflicts with 28 convicted persons participating in them, were recorded. In the same period of 2010 20 conflicts, of which 9 ones were physical conflicts and 11 ones were verbal conflicts with 50 convicted persons participating in them. The 2009 data also indicate that the number of conflicts was larger than the number of registered cases in 2011.

### **Paragraph 40**

Prisons in Banja Luka and Foca are high security prisons. Article 11 of the Law on Execution of Criminal Sanctions of the Republika Srpska determines that high security prisons can establish wards with maximum security and intensive treatment program.

Article 137 of the Law provides that the prisoners who constantly break order and security in prison may be imposed specific measures in order to maintain order and security. One such measure is a special order for placement in the Maximum Security and Intensive Treatment Program Ward and Article 141 determines that the order is imposed in case of a risk of flight, violent behavior toward other prisoners or property or a risk of jeopardizing discipline and order that cannot be eliminated by other means. The article provides that the order for placement in the Ward is issued by the Prison Governor on a proposal of security and treatment services.

Article 138 Law determines that all special measures needed to maintain discipline except a special measure of isolation are issued by the Prison Governor.

In case of ordering the special measure of isolation, the Prison Governor issues a decision (rjesenje), which is served on the convicted person who has the right to appeal it with the Ministry of Justice.

An order for a special measure of placement in the Maximum Security and Intensive Treatment Program Ward is delivered to treatment and security services and a copy is filed in the records of the convicted person. An appeal is not allowed against the order.

As a special measure of placement in the Maximum Security and Intensive Treatment Program Ward is ordered by the Prison Governor, the circumstances, reasons and everything related to the order for the special measure are communicated verbally to the prisoner by officers of the treatment and security services prior to his placement.

The fact is that the Law does not provide for a legal remedy against an order for this measure; but the prisoners who consider that reasons for ordering or extending the measure are not valid, in any case have the option of filing a complaint to the RS Ministry of Justice, Ombudsman of Bosnia and Herzegovina or another independent body to examine imposition and legality of the order.

It is important to clarify that the penological theory and practice considers a special measure of placement in the Maximum Security and Intensive Treatment Program Ward **not to be a disciplinary penalty** but a special form of treatment among high risk prisoners and the prisoners who do not accept the specified treatment program or where it does not achieve the desired goal.

**Paragraph 44** (in conjunction with paragraphs 41, 42 and 43)

#### **Comments concerning Foca Prison:**

In accordance with the recommendations of the cited paragraphs of the Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) delegation, Foca Prison immediately started refurbishing the Special Ward in building number 2 and solving the problem of lack of natural light in the premises. The works are in progress and deficiencies will be adequately remedied. Until the completion of works prisoners will not be placed in this ward.

As for the remarks that there is no purposeful regime or sentence plan while a prisoner is placed in the Maximum Security and Intensive Treatment Program Ward (heightened supervision unit), please note that Foca Prison makes for each convicted person who has received the measure of placement in this Ward an individual treatment program determining treatment of convicted person for the duration of this measure. The individual program of treatment is made on the basis of detailed analysis of all risk factors and needs of the convicted person (safety, personality, health needs, sports and recreational and occupational therapy purposes). Accordingly, the prisoners are allowed to leave for the room where they do sports and recreational activities, table tennis etc. Leisure activities include the possibility of using the library, publications and daily newspapers, which Prison provides, and watching cable television and DVDs. The prisoners are allowed to go outdoors for fresh air in groups of 3 or more prisoners provided that security reasons and desires of prisoners in terms of socializing with other prisoners are taken into account when picking up prisoners for the groups.

Regarding communication with the outside world, prisoners who are ordered to be placed in the Ward are entitled to receive at least once a month family members in a regular visit of at least 60 minutes, as required by Article 85 Paragraph 1 of the Law and Article 62 Paragraph 3 of the House Rules for Serving Prison Sentences. Depending on the classification and incentive group a prisoner is placed in, the Prison Governor may grant more frequent regular visits and prolong duration of the visits. In addition, the Prison Governor may approve exceptional and extraordinary visits, i.e. visits of persons who are not family members of the convicted person. All prisoners who are imposed a measure of placement in the Maximum Security and Intensive Treatment Program Ward in Foca Prison are entitled to visits which depends on their classification and incentive groups and last from 1 hour to 5 hours. It should be noted that some of the prisoners retain position in their classification and incentive group even when they are placed in the Ward (prisoners who are placed in the ward at their own request for reasons of personal safety etc.) and are visited in accordance with the schedule of their respective groups (5 inmates which are currently in this Ward are visited for 3 to 5 hours) and in justified cases they are granted extraordinary and conjugal visits. As for communication by telephone, in accordance with the schedule of daily activities, all prisoners placed in the Maximum Security and Intensive Treatment Program Ward are entitled to make a 10 minutes' telephone call twice a week, as provided in Article 58, paragraph 6 of the House Rules for Serving Prison Sentences. In addition to these regular telephone calls, prisoners are entitled to emergency telephone calls from family members, which are individually approved after their justification is assessed in each individual case. Currently Foca Prison is installing a new system of telephone calls to be made by prisoners in telephone booths, which have been already installed in the Maximum Security and Intensive Treatment Program Ward. In this way, prisoners will have more opportunities to contact family members by telephone.

Regarding the recommendations in paragraph 45, which relates to the treatment of prisoners who were placed in the Maximum Security and Intensive Treatment Program Ward in Foca Prison at their own request and for reasons of personal safety, we emphasize that Foca Prison develops for these prisoners individual treatment programs which determine treatment of the convicted persons while placed in the Maximum Security and Intensive Treatment Program Ward. The programs provide these prisoners with all the above to an even greater extent, taking into account safety reasons and particularly wishes of prisoners in terms of socializing with other prisoners and placement in double rooms. Special attention is paid to the health status of this category of prisoners and healthcare workers visit the prisoners placed in the Maximum Security and Intensive Treatment Program Ward on a daily basis.

### **Comments concerning Banja Luka Prison:**

Article 13 of the Law on Execution of Criminal Sanctions provides that in accordance with the House Rules, the Prison Governor determines the schedule of daily activities of prisoners in accordance with specific characteristics of each prison. On this basis, the Prison Governor issued a schedule of daily activities in the Maximum Security and Intensive Treatment Program Ward with instructions on the implementation. The rules are made in accordance with applicable law.

Article 50 of the House Rules determines that prisoners who work and stay in an enclosed space are allowed to go outdoors for fresh air at least 3 hours and persons serving a sentence of solitary confinement or disciplinary measure of isolation at least 1 hour. As the prisoners who are placed in the Maximum Security and Intensive Treatment Program Ward do not work, in the instructions on the implementation of schedule of daily activities in the Maximum Security and Intensive Treatment Program Ward, the Prison Governor determined that the prisoners would for a walk at least 1 hour a day. This Ward has a policy to, if there are opportunities, enable prisoners to



stay longer outdoors and, in addition to walking, do gymnastic exercises, strength exercises, weight exercises and this year the walking space of the Maximum Security and Intensive Treatment Program Ward is equipped with a mini basketball court.

As for the allegations that there was no sentence plan or intensive counseling to assist inmates to re-integrate into the general prison population, we must refute them. The monthly plans of treatment service especially elaborate treatment plans for prisoners who need intensive treatment programs. The correctional staff counsels the inmates to affect changes in views, behaviors and attitudes towards the criminal offense committed and penalty.

As some prisoners have been staying in the Maximum Security and Intensive Treatment Program Ward for a long period of time and most of the topics have been exhausted by individual educators, we have recently introduced the practice of rotating of educators who are in charge of work with inmates in this particular Ward after certain time, thus avoiding the monotony of constant repetition of the same topics.

Exceptions are prisoners on whom the special measure of placement in the Maximum Security and Intensive Treatment Program Ward was imposed for safety reasons, i.e. prisoners who do not behave problematically or have not a negative attitude towards the criminal offense and penalty. This includes a small number of prisoners whose personal safety is threatened by other prisoners in the collective and prisoners who are reasonably believed to be intent on escaping the prison in certain circumstances or otherwise jeopardize prison security.

Article 127, paragraph dj) of the Law provides that unauthorized contact with other persons is a petty disciplinary offense while Article 128, paragraph 1, point c) determines that frequent commission of petty disciplinary offenses is a serious disciplinary offence.

We know that disabling contacts with other people may adversely affect the mental stability and mental health of people, so we cannot agree with the statement that each attempt of prisoners placed in the Maximum Security and Intensive Treatment Program Ward to communicate is consistently prevented. Specifically, since the established of the Ward there has been only one case of disciplinary proceedings, when three prisoners were punished for illegal communication and the reason for this was that in the communication they planned illegal activities and organized barter and purchase of prohibited items. However, a timely response of the security services prevented them from realizing their intention.

The special measure of placement in the Maximum Security and Intensive Treatment Program Ward has been enforced against a convicted person since 2 July 2009 for a number of safety concerns and *inter alia* because of an increased risk of escape. Specifically, it is a prisoner who is serving a prison sentence of 10 years for committing the criminal offense of war crimes against civilians and against whom the Court of BiH has instituted new criminal proceedings on suspicion of his having committed a crime against humanity for which he faces a prison sentence for a maximum term of 45 years. Furthermore, the prisoner is a figure of authority in the prison population and is able to strongly influence other prisoners, as proven in 2008 when the prisoners protested and refused to perform jobs as a token of solidarity with the prisoner who was not allowed to attend his mother's funeral unescorted. The prison officers took timely actions and prevented the protests from erupting into riots by isolating a number of prisoners (ringleader) from the prison population and transferring the prisoner concerned to continue to serve his sentence in another correctional facility.

As regards the enforcement of the special measure of placement in the Maximum Security and Intensive Treatment Program Ward in the particular case, we want to inform you that the convicted person had a privileged treatment in the Ward which can be seen in numerous benefits that other prisoners in the Ward did not have. The prisoner was allowed to make phone calls on a daily basis, go for prolonged walks, watch TV late in the night, have conjugal visits, his requests for extraordinary and extended visits were granted, maximum attention was paid to the selection of his room-mate (most of the time he shared the room with another convicted person) and even his wish not to share the room with another convicted person in order to have peace and prepare his defense was complied with. From the foregoing it is evident that a comparison of the conditions of his stay in the Maximum Security and Intensive Treatment Program Ward with solitary confinement is utterly unacceptable.

As for the length of stay in the Maximum Security and Intensive Treatment Program Ward, it is true that some prisoners stayed in there longer than 6 months and some are still staying. Article 141 of the Law requires a review of order to place a prisoner in the Maximum Security and Intensive Treatment Program Ward and achievements of intensive treatment every 3 months. The order to place a prisoner in the Maximum Security and Intensive Treatment Program Ward and achievements of intensive treatment program have been reviewed quarterly and in accordance with the assessment the order is suspended or extended.

As for contacts with the outside world, Article 83 of the Law provides that prisoners are entitled to contact their family members and other persons and members of organizations that can assist in exercising their rights through visits, phone calls and correspondence. Article 58 of the House Rules provides that a prisoner is entitled to a telephone call at least once a week for no longer than 10 minutes and Article 62 of the House Rules provides that a 60 minutes' regular visit is allowed at least once a month. Article 84 of the Law provides that prisoners have the unlimited right of correspondence with family members. All prisoners placed in the Maximum Security and Intensive Treatment Program Ward are treated in accordance with these statutory provisions.

The statements of some prisoners that they did not benefit from additional support or counselling are the matter of their own attitude towards the penalty and treatment program, as well as readiness for dedication to the treatment and desire for success in resocialization.

Regarding the query of the Committee whether the heightened supervision unit at Foča Prison will continue to operate after the opening of the high-security unit (paragraph 44), we are informing you about the following: Articles 137-143 of the Law on Execution of Criminal Sanctions provide for special measures to maintain order and discipline in correctional institutions, while Article 11, Paragraph 4 of the Law provides for the establishment of the Special Regime Ward and the Maximum Security and Intensive Treatment Program Ward, as high security wards in a high security correctional institution.

Pursuant to the provisions of the Law on Special Regime of Imprisonment ("Official Gazette of the Republika Srpska" No. 30/10), Foca Prison has established a Special Regime Ward, where sentences will be executed against the prisoners who were found in the personality test to be a risk for safety of other inmates and property in the prison and prisoners who have already received the entire list of exhaustive measures for maintaining order and discipline while incarcerated and these measures failed. Upon a reasoned proposal by the Prison Governor the placement is ordered for a period of six months by the Minister of Justice.

The special regime of imprisonment is not a disciplinary punishment or special measure imposed on prisoners, but a way of prison sentence execution in a strictly controlled environment, taking care not to violate or breach any of the rights of prisoners. Before the expiration of this period the Governor of the prison where the Special Regime Ward is submits to the Minister of Justice a detailed report with a proposal to lift or extend the order for placement in the Special Regime Ward.

The Maximum Security and Intensive Treatment Program Ward will continue to operate in accordance with the legal framework and will be used for the execution of special measures imposed on persons serving prison sentences collectively.

#### **Paragraph 45**

We agree with the recommendation from paragraph 45 that prisoners who had been placed there for their own protection should be provided with meaningful activities, but we have to make a comment on the portion of the recommendation relating to the "proper support from the health-care service" because they and all other convicted persons serving a sentence in our institution have been provided with complete medical care and they have never been denied their seeing the prison doctor or specialists, not even in those cases where they faked the illness obviously.

As for organizing meaningful activities, we must emphasize that we have space and staff constraints and we are not objectively able to provide a special area, occupational therapist and security officers for specific, individual cases. However, we try to make these prisoners' stay in the Maximum Security and Intensive Treatment Program Ward easier by improving conditions and mitigating the regime.

Furthermore, after the visit of the Committee, the walking space of the Ward was equipped with a mini-gym, basketball court, exercise equipment and balls. Also, efforts have been made to provide inmates who show interest in some artistic or creative work (writing, painting, making art objects) with necessary kits.

#### **Paragraph 46**

Regarding this recommendation, we emphasize that in 2010 the number of posts in the security service of Foca Prison was increased in the Rule Book on Organizational Structure and Job Descriptions. The earlier Rule Book provided for 127 officers in the security service (prison guards) while the new Rule Book provides for a total of 148 officers. According to the amendments, in 2010 and 2011, 20 trainees were employed in the security service and they had practical and theoretical training, passed the qualification exam and were given full-time employment contracts in the security service of Foca Prison. Another five officers with work experience were employed in the security service, while three officers were transferred into the security service from other services of Foca Prison. Currently the security service employs 124 security officers, the Special Regime Ward still not working at full capacity but with 84% of staff provided for in the Rule Book.

#### **Paragraph 49**

The capacity of detention unit in Banja Luka Prison is 79 detainees in 16 rooms. When we subtract rooms for female detainees and rooms for minor detainees, the capacity is 72 male detainees. We must emphasize that occasionally we have a problem with the capacity and we have informed courts and the Ministry of Justice about it.

In case that the courts order for detention of more persons than the capacity of the detention unit is, our institution sends to the courts a request for transfer to other detention facilities in the Republika Srpska, so that the standard of a minimum of 4 square meters is generally observed, except in exceptional situations and for a very short period of time, until the hearing courts have resolved the issue of transfer of detained persons.

Maintaining hygiene in the premises is carried out in accordance with the House Rules for the Execution of Custody. It is done on a daily basis and general cleaning of the rooms is done once a week. Cleaning stuffs are sufficient. However, in the past the main cleaning stuff was hydrochloric acid, which is a highly corrosive liquid that etched the plumbing system consisting of lead pipes that were installed during the construction of facility. The detained persons cleaned the toilets by spreading this acid, leaving it for some time and then rinsing it off with water. Since some partial repairs of the plumbing system, they have been using new detergent (Domestos), which is milder than hydrochloric acid and does not ruin plumbing systems. When using this stuff the detainees have to sprinkle the cleaning area, then apply a brush or sponge and then rinse it off with water and that is exactly what the detainees are reluctant to do.

Last year the project documentation for the expansion of the Detention Unit and Admission and Discharge Unit was developed.

Geological and statics tests are being made these days in order to expand the capacity of the detention unit.

In order to improve living standards and conditions of prisoners serving sentences in Banja Luka Prison, in 2010 and 2011, one floor was added and three floors to house prisoners were refurbished. All rooms and the room for non-seasonal clothing storage were equipped with new wardrobes.

In 2011 Banja Luka Prison put significant funds in a new system of telephone booths, so that all prisoners can now use telephone throughout the day.

We believe that the conditions for serving prison terms are very good and appropriate and that the Republika Srpska authorities invested significant funds in improving living conditions of prisoners in Banja Luka Prison in the last two years.

### **Paragraph 51**

With regard to this comment, the competent authorities of Foca Prison visited all correctional collectives and ascertained the condition this recommendation deals with. So, 1-2 beds were taken from each bedroom where the problem was observed and put in bedrooms that have a surplus of usable space, so now all the bedrooms meet the criteria under the recommendations of the delegation that every convicted person should have 4 m<sup>2</sup> of usable space in the bedroom.

We think that it is important to emphasize here that the CPT delegation in the Report speaks only about "living space" in each bedroom, while Article 75, paragraph 5 of the Law provides that the rooms in which prisoners reside must meet health and hygiene needs, sufficient fresh air, heating, ventilation, and have at least four square meters and not less than ten cubic meters of space per a convicted person. Consequently, premises in which prisoners reside in a correctional collective educational include, besides bedrooms, also common areas (living room, smoking room,

toilets, bathrooms and rooms for personal hygiene) and we think that both of these areas should be calculated in the total size of useful space that should be divided with a total number of convicted persons who reside in the correctional collective. In this case, the useful area for accommodation and living of prisoners per a convicted person is well above the standards prescribed by law and European standards.

#### **Paragraph 54**

In previous visits by various institutions, there were no objections against officers working with remand prisoners or objections that the rights of detained persons were in any way compromised, as the Committee itself could see it, because besides this alleged harassment, the issue of forbidding own pens in the cells arose as a serious problem.

In connection with this remark, it must be explained that the use of pens is under supervision of officers for several, in our opinion, legitimate reasons (tattooing with ink from pens causes transmission of infectious diseases; with advances in technology pens are equipped with various prohibited devices such as cameras, voice recorders ...). Putting pens under control has brought about significantly fewer message exchanges and writing and drawing on the walls (destruction of Prison's property). Deliberate destruction is a disciplinary offense and any prisoner who committed the offence is liable for damage. In this way the pen-user and any other person who has caused damage are correctly identified and the proceedings can be easily carried out. We do not see a problem that a pen is out of the cell under supervision of an officer, especially if one takes into account that in any moment it is available to detained person at his request.

We agree that it is necessary to provide longer out-of-cell stay of detainees, using a variety of activities outside the room, but activities in the detention unit are carried out in accordance with the Law. Given the detention unit has a problem with the very capacity, we do not see how we can provide additional rooms in which detainees could carry out various occupational and sports activities. We must emphasize that we have partitioned the walking space into three parts and provided space for detainees to go for fresh air for 2 hours a day. It is physically impossible to provide a longer stay outdoors. In particular, we emphasize that the detention unit houses persons who are at various stages of prosecution. Detainees are often suspected of the same offense, so based on the Criminal Procedure Code and the Law on Execution of Criminal Sanctions, they must be kept in separate rooms and any contact between these persons must be prevented. For example, at the moment in the detention unit there is a group of 11 persons suspected of organized crime. The question is how to organize a common room, activities and contacts, as recommended in paragraph 54, and respect legal provisions, i.e. reasons for detention, at the same time.

#### **Paragraph 56**

##### **Banja Luka Prison**

Pursuant to Article 21 of the Law on Execution of Criminal Sanctions, work of prisoners is voluntary and not mandatory. Convicted persons may be employed within the prison and outside the prison. Within the prison the prisoners can work in workshops and in prison-support jobs necessary for the functioning of the prison. The following workshops are set up in the prison: carpentry, locksmith, tinsmith, auto mechanic, plumbing, electrical shop, sawmill and farm and over 60 prisoners are engaged in them on a daily basis. The workshops are run by occupational instructors, who are qualified and who, in addition to organizing the work, perform vocational training of prisoners. Opening hours of the workshop is 7.30 a.m. to 2.30 p.m. on weekdays. Banja Luka Prison employs 22 full-time occupational instructors.

Domestic jobs within the prison (kitchen, bakery, laundry room, boiler room, restaurant, store, car wash, café, canteen, barber shop, anti-fire protection, cleaning of facilities and courtyard) occupy an average of 50-60 sentenced persons on a daily basis. All jobs, except the barber shop and cleaning are organized under supervision of an occupational instructor.

Convicted persons can work outside the prison and jobs that are available in the service sector are: construction works, painting works and various labouring jobs. There is no long-term plan for these jobs as they depend on market demand but based on previous demand, we can say that an average of about 20 inmates were employed on a daily basis.

Banja Luka Prison has " Trn Farm", a low security unit, where 10 inmates work on a daily basis.

When all the above figures are added, they give a total of about 150 prisoners involved in work on a daily basis, so we do not know how you got the information that only some 30 prisoners were offered a full-time job and what jobs you mean.

When it comes to work of prisoners, for a long period of time we have been facing a problem that emerged with the law providing that work is not mandatory but voluntary for prisoners. A number of prisoners, mostly notorious recidivist criminals or prisoners with limited working abilities, is constantly trying to abuse this right. Namely, at the beginning of serving their prison terms, they refuse to be engaged in work and with time approaching for their formal eligibility for privileges outside the prison they begin to give frequent requests that they should be engaged and set more or less unrealistic demands and conditions, since Article 113 of the Law provides that one of prerequisites for granting privileges is that a prisoner works.

As regards the organization of leisure activities, we have an employed teacher for cultural and educational matters and religious affairs, who organizes sports, educational, cultural and artistic clubs. Prisoners are allowed to participate in sports clubs (football, basketball, volleyball, table tennis, chess and gym) and cultural and educational clubs (woodcarving, painting, literature, press, information technologies, music and library). These clubs always actively involve about 160 inmates, and two prisoners who work as coordinators of the clubs are designated for these clubs each.

A work program and organization of clubs are performed, monitored, implemented and evaluated by teacher for cultural and educational matters and religious affairs. The clubs are organized on a daily basis in the afternoon, on Saturdays, Sundays and holidays.

Banja Luka Prison allows all prisoners to practice religion, regardless of their religious affiliation and in the presence of a priest. Further, Banja Luka Prison provides education and additional education of inmates in educational establishments outside the Prison in accordance with the Law on Adult Education in the RS and educational costs are borne by prisoners.

In addition to these activities, we periodically organize, through cultural and educational organizations, different courses (foreign language, music education, the fundamentals of information technologies etc.). Further, the Prison has good cooperation with many sporting and cultural organizations of the City of Banja Luka, so that prisoners can go to a variety of cultural, educational and sporting events, which are also organized within the Prison (musical and literary evenings, exhibitions etc.).

### **Foca Prison**

In Foca Prison, in accordance with the schedule of daily activities, prisoners are entitled to go out for fresh air on weekdays for a minimum of 3 hours and 30 minutes in summer (from 15 April to 15 October) or 2 hours and 30 minutes in winter (from 16 October to 14 April), while staying outdoors on weekends and holidays is 30 minutes longer.

Sports and recreational activities are provided for inmates between 4.30 p.m. to 6.00 p.m. on a daily basis. Further, Foca Prison has organized a number of permanent clubs which meet the needs of prisoners for cultural, educational, sports and recreational activities. Currently the following clubs are working: press, woodcarving, modeling, art, body-building, table-tennis and computer. These clubs occupy about 70% of the total population of prisoners. The criteria for each club are clearly defined in the House Rules and Guidelines on the Work of Each Club and membership is determined in accordance with the classification and incentive group and preferences of the sentenced person. According to the schedule of daily activities, clubs are divided in groups from 11.30 p.m. to 6.00 p.m. All activities within the clubs as well as other cultural and educational or sports activities are organized by officers of the treatment service, i.e. teacher for cultural and educational matters and religious affairs, and not convicted persons themselves. In the past, prisoners had different educational lectures on the problem of drug addiction and the problem of communicable diseases (HIV, hepatitis etc.) and currently, in collaboration with an NGO, we have a project of training of prisoners in transmission of sexual and other contagious diseases.

In occupational therapeutic activities in Foca Prison, the percentage of convicted persons that are engaged according to objective possibilities of the Prison is over 50% of the total number of prisoners. Other leisure and recreational activities are: using the library with over 5000 titles, daily and weekly newspapers, which are provided by the Prison, and watching TV.

Prison Foca will in future consider the possibility of introducing new forms and contents of cultural, educational, sports and recreational activities with taking into account the need to preserve security and safety of facilities and inmates.

### **Doboj Prison**

Employment of convicted persons in the Prison is conducted in accordance with the Rule Book on Organizational Structure and Job Descriptions, which currently provides for 37 posts. Temporary jobs of prisoners range from 26-32. If we take into account the number of convicted persons who do not want to be engaged in work, the number of prisoners who are unable to work and inability to provide adequate employment, we believe that the current situation regarding the employment of convicted persons is satisfactory.

The extent of sports and cultural activities is satisfactory (gym, table tennis, basketball, chess, library, TV) and, depending on the interest of the convicted persons, clubs (woodcarving workshops, computer courses etc.) are organized periodically.

### **Paragraph 60**

Regarding the allegation of the Committee that in Foca 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, as well as the recommendations from paragraph 62 that in Foca Prison steps should be taken to ensure the equivalent of a full-time doctor and of two additional qualified nurses, preferably one of whom should be a qualified mental health nurse, we emphasize that the Foca Prison health service has hired under special service contract a general practitioner who works every day for 4 hours, performs regular examinations of prisoners and if necessary intervenes on weekend and at night. Foca Prison has hired under special service contract a specialist in neuro-psychiatrics. In addition, in medical emergencies, doctors from Emergency Ward of the Health Center of Foca are contracted to provide emergency medical services to prisoners. Also, Foca Prison has concluded a contract with the Clinical Center of Foca for specialists' examinations, under which almost on a daily basis specialists of the Clinical Center of Foca (internist, orthopedic surgeon, ophthalmologist, urologist, pneumo-phtisiologue, dermatologist, neuro-psychiatrist etc.) examine prisoners in the premises of Foca Prison. In addition, the prison health service employs four full-time medical technicians who work round-the-clock.

### **Paragraph 67**

As for recommendations regarding the education of prisoners and prison staff about drug addiction and transmittable diseases, we emphasize that Banja Luka Prison has successful cooperation with the "Victoria" Counseling on the Prevention and Treatment of Substance Abuse Citizens' Association of Banja Luka. Cooperation began in 2007 under the Global Fund Programme in Bosnia and Herzegovina and has been lasting up to date and includes ongoing educational lectures on drug abuse, HIV / AIDS, hepatitis and other blood and sexually transmitted deceases delivered by trained professionals from the "Viktoria" Citizens' Association.

Since June this year the prisoners are educated through peer training, so that four prisoners from this prison were selected to be trained in peer training and, using peer training, under the supervision of teachers from the treatment services, they carry out education of convicted persons on these topics. In addition to the oral conveyance of knowledge, the peer trainers provide all prisoners with adequate brochures and other printed material relating to the prevention of HIV, hepatitis and drug abuse. Further, the prisoners who enjoy "living/living out" privileges and the room for conjugal visits have available sufficient quantities of condoms and lubricants when using these privileges.

Besides the education of prisoners, on several occasions lectures have been delivered to the prison staff about prevention, stigma and discrimination related to drug abuse, HIV / AIDS, hepatitis and other communicable diseases in the prison environment. The lectures were attended by almost all members of staff who are in direct contact with prisoners. The education of prisoners and prison staff is accompanied with testing of all members of staff and prisoners interested for HIV, hepatitis B and C and syphilis. The testing is anonymous, confidential and voluntary and is made in collaboration with the Infectious Diseases Clinic of the Clinical Center of Banja Luka.



### **Paragraph 73**

In connection with the allegation that after having absconded and been apprehended, a convicted person spent in solitary confinement more than 80 days, we inform you that, owing to the disciplinary offense first the prisoner was imposed a punishment of solitary confinement of 20 days and, after the expiration, the convicted person received the special measure of isolation for a period of 2 months.

As for the prisoner who tried to escape in August 2010, for this disciplinary offense he was imposed a disciplinary punishment of solitary confinement and a special measure of isolation for a period of two months, which was extended for another 2 months, which is in accordance with the provisions of Article 143, paragraph 1 of the Law on Execution of Criminal Sanctions. In this case, the prisoner is probably the most dangerous high risk convicted person currently serving a sentence in the RS. He is a multiple recidivist in commission of the most violent felonies - robberies resulting in victim's death and attempted murder, he is a psychopath with no moral standards established, unpredictable, prone to aggressive and auto aggressive reactions. During his stay in custody and prison, he injured himself and attempted suicide swallowing batteries or other items or cutting veins, he harassed and physically abused and attacked other prisoners, and during his stay in Foca Prison he attacked and tried to kill an accomplice in one of his crimes.

The security service and the prison professional team assessed that the prisoner, who was highly frustrated due to the failed escape, was ready, if an opportunity arises, to seriously hurt or even kill a prison officer and that he could commit suicide in moments of mental crisis. Therefore, we believe that the use of means of restraint in his case was fully justified and necessary, as confirmed by the Ministry of Justice of RS in its decision on the justification of use of means of restraint No. 08.030/241-177/10 dated 31 August 2010.

### **Paragraphs 74 and 75**

In connection with the comment that about one-sixth (48) of inmates in Foča Prison were entitled to only one hour of visit time per month, we note that the matter of visits to prisoners is regulated in Article 85, paragraph 1 of the Law on Execution of Criminal Sanctions and Article 62, paragraph 3 of the House Rules for Serving Prison Sentences providing that prisoners are entitled to be visited by family members at least once a month for at least 60 minutes. Depending on the classification and incentive group, the Prison Governor may grant more frequent regular visits and prolonged visits. In addition, the Prison Governor may approve exceptional and extraordinary visits, i.e. visits of persons who are not family members of the convicted person.

The data presented in the CPT's comment refers to the number of prisoners currently classified in (classification and incentive group of) "Category C" and their legal rights in terms of visits, but on this occasion the possibility that these prisoners may file a petition to the Prison Governor requesting that he should grant more frequent visits and extended duration of regular visits and emergency visits was not taken into account. At the time of CPT's visit, none of such petitions asking for a visit were rejected, which suggests that none of the convicted persons filed a petition for the entailments and privileges. The issue of visits should be considered in the context of circumstances of convicted persons and their families, as well as of the long distance of the family's place of residence from the Prison. Otherwise, the number of rejected petitions involving visits is negligibly small, as their granting is limited primarily only by the desire of the convicted person, security reasons and the visit's effect on the personality of the convicted person and his further process of resocialization.

The statutory provisions above are from the Law on Execution of Criminal Sanctions of the Republika Srpska and persons who have been sentenced by courts of the Republika Srpska, while the persons tried by the Court of BiH are subject to provisions of the Law on Execution of Criminal Sanctions of Bosnia and Herzegovina and Rule Books arising from the Law.

### **Ministry of the Interior of the Republika Srpska - Criminal Police Administration**

Please find herein the information about our employees' actions upon receipt of the report by the European Committee for the Prevention of Torture.

- On 6 October 2011 all organizational units, which were visited by the European Committee for the Prevention of Torture, and they are Banja Luka Central Police Station, Banja Luka Laktaši Police Station, Bosanska Gradiška Police Station, Foča Police Station, Istočno Sarajevo Police Station and Sokolac Police Station, were asked to submit a detailed report on the visit as well as comments on the observations of the Committee given in the report.

- The organizational units have delivered reports on the visit of the delegation of the European Committee and stated therein that the delegation of the European Commission had no objections to the Foča Police Station, Laktaši Police Station, Gradiska Police Station and Sokolac Police Station.

1) The report of the Istočno Sarajevo Police Station states that CPT noted the lack of beds in the detention premises, as the first observation, and they were informed that the building where the Police Station was located had been refurbished and that it has not been fully equipped and will be in future. Another objection by the CPT delegation was that on 25 March 2011 Istocno Sarajevo police officers arrested two persons for a robbery and aggravated theft and that one of the persons had visible injuries on the nose and above the left eye, while the other person had no visible injuries. The injuries were noted in the detention report and while in detention, the detainees did not require medical attention. After surrender of the persons to the District Prosecutor's Office they complained about the injuries and conduct of police officers and it was believed that there were grounds for suspicion that a human dignity violation was committed by abuse of position or authority under Art. 359 of RS CC. Please note that the Istocno Sarajevo District Prosecutor's Office has been conducting an investigation of the alleged criminal offence.

Further, in addition to submitting the report to the District Prosecutor's Office, there is an internal investigation, i.e. actions have been taken in order to verify allegations of going beyond powers and illegal conduct and it was found that there was no going beyond powers and an official report was made and sent to the Istocno Sarajevo District Prosecutor's Office on 27 September 2011.

2) The Banja Luka Police Station's report states that the CPT delegation visited the Police Station on 6 April 2011 and on this occasion in the premises, which are not used for work with clients or for criminal investigation of persons deprived of liberty, they found four wooden sticks (three baseball bats and a wooden handle) packed in paper bags with supporting documentation, i.e. certificates of seizure, official records and statements from persons from whom the objects were seized. On this occasion, members of the delegation were presented with supporting documents as well as with the operational plan of action called "Kasper" on the basis of which measures and actions were taken that resulted in seizure of the objects found.

As the CPT report does not specify persons who were deprived of liberty, the records of detention were inspected and it was found that several persons, including P.D. Š.B. and D.N., were questioned on 1 June 2011 while on 3 June 2011 M.D. was questioned for committing a robbery and taking away a vehicle and after submitting the report they were handed over to the District Prosecutor's Office in Banja Luka. At the request of the District Prosecutor's Office, the District Court in Banja Luka ordered that the persons should be kept in detention.

As regards the allegations of questioning persons in July 2010 and on 1 October 2010 and 5 February 2011, we checked our records and saw that there were no arrests nor any person was questioned for suspicion of having committed a criminal offence. As these allegations do not include specific names and events we are not able to ascertain which cases they were.

The report of the delegation says that Banja Luka Central Police Station does not contain any holding cell; actually it does, but it is not equipped due to a lack of funds and is expected to be equipped in 2012.

- Please note that this Ministry was not able to tackle in details the comments made by representatives of the Committee because allegations in the report are scant, i.e. do not give further clarifications of events where there has been a violation of human rights of persons brought in organizational units of the Ministry nor do they give days and time of the event (they are detailed in several cases in the report of the delegation and we have explained them above).
- The Report of the Delegation of the European Committee and reports of organizational units of the Ministry described above have been forwarded to the Professional Standards Unit of the Ministry of the Interior of RS for their action in order to investigate whether there are disciplinary or other responsibilities.

We hereby ask you to ask, if you are able to, the European Committee to explain the events from the report in more details particularly who complained about the conduct of police officers, the exact date, event, etc. in order to further investigate the event.

After the second consultative meeting with the representative of the Ministry for Human Rights and Refugees held on 23 December 2011 we prepared a supplement report about our employees' actions upon receipt of the report by the European Committee for the Prevention of Torture.

- As stated in the first report the holding cells have not been equipped due to a lack of funds and are expected to be equipped in 2012. The same goes for the premises for storage of seized property and for this reason the seized baseball bats were found in the premises which, we once again highlight, are not used for interrogation of persons deprived of liberty. We also indicate that the baseball bats were temporarily seized objects and they are sports equipment and will be removed once court decisions have been made.
- In cases where the report mentions handcuffing to radiators, the placing of plastic bags over the heads of suspects and the like, we are not able to determine which cases are involved because the report of the delegation scantily describes the events. Please note that in the future we will try to determine whether any of the officers of the Ministry used the objects and we will inform you about everything and institute disciplinary and criminal proceedings against them.

## **Ministry of Health and Social Protection of Republika Srpska**

Information regarding completion of construction and putting into operation of the Institute for Forensic Psychiatry in Sokolac submitted by the Ministry of Health and Social Protection of the Republika Srpska.

Pursuant to Article 43 of the Health Care Law ("Official Gazette of RS" 106/09), Articles 3 and 5 of the Law on the Public Service System ("Official Gazette of RS" 68/07) and Article 43, Paragraph 3 of the Law on the Republika Srpska Government ("Official Gazette of RS 118/08), the Republika Srpska Government issued the Decision on the Establishment of the Sokolac Institute for Forensic Psychiatry, based in Sokolac.

In accordance with the Decision on the Establishment of the Sokolac Institute for Forensic Psychiatry ("Official Gazette of RS" 07/10), in accordance with the Law, the Sokolac Basic Court rendered the decision on registration of the Public Institution of " Sokolac Institute for Forensic Psychiatry " based in Sokolac in the court register.

As this is a unique institution of this kind in Bosnia and Herzegovina the Agreement on Placement and Reimbursement of Costs for the Execution of Detention Orders Imposed in Criminal Proceedings and Other Proceedings in Which An Order for Medical Treatment is Given ("Official Gazette" No. 89/09) was signed. The signatories to this Agreement are the Council of Ministers, the Government of the Federation, the Republika Srpska Government and the Government of the Brcko District. The agreement provides for housing and treating of patients from all over Bosnia and Herzegovina under equal conditions.

Thanks to the Government of the Confederation of Switzerland, which provided CHF 2,800,000 through the State Secretariat for Economic Affairs, it was possible to rehabilitate and reconstruct the buildings built for that purpose, which will house the Sokolac Institute for Forensic Psychiatry.

PIU for the rehabilitation of the building of the Institute, appointed by the Council of Ministers conducted an open public procurement procedure (international tender) and selected contractors to award a contract for the repair, renovation and reconstruction of the building, according to the original restoration project. Works on repairing, renovation and reconstruction of the building are at the final stage.

The next necessary step to create the conditions for the start of the Institute is fund raising and procurement procedure and installation of necessary medical and nonmedical equipment. A design envisaging the basic equipment was prepared, the amount of about BAM 2,100,000.00 being necessary for its procurement.

After completion of all planned rehabilitation, renovation and reconstruction works, an amount of BAM 500,000.00 is predicted to remain and it will be directed to the procurement of equipment, which means that it is necessary to provide another BAM 1.6 million for equipment and some funds necessary for starting the Institute, such as funds for property appraisal, the payment of taxes on real property transfer, fees for obtaining necessary permits, training of staff, procurement of food for patients, hygiene stuffs, fuel and electrical energy etc.

Drafting of a by-law required for the Institute to begin work, such as the Rule Book on Organizational Structure and Job Descriptions adjusting the organizational structure and working hours to the needs of patients, is in progress.

As a new health care facility is being set up to be greatly beneficial to the justice system of Bosnia and Herzegovina, the Republika Srpska and the Federation, where great attention will be paid to meeting relevant standards and to give a full contribution to the implementation and compliance with the European Convention on Human Rights, the Ministry of Health and Social Protection of the Republika Srpska considers it necessary to as soon as possible provide the lacking funds and initiate the procedure of public procurement of medical and nonmedical equipment.

Bearing in mind that it is a project important for Bosnia and Herzegovina, the significance of the project and the need for urgent beginning of this institution's operation, the Ministry of Health and Social Welfare of RS addressed the Council of Ministers for support and help to ensure the lacking funds in the total amount of BAM 1,600,000.00, which is necessary to buy medical and nonmedical equipment as designed and facilitate the beginning of this institution's operation.

In accordance with the Law on Ministerial and Government Appointments ("Official Gazette of the Republika Srpska" No. 41/03) the Republika Srpska Government appointed the Director of the Sokolac Institute of Forensic Psychiatric.

### **Clinical Center of East Sarajevo - Sokolac Psychiatric Clinic**

On 5 and 6 April 2011, the European Committee for the Prevention of Torture (CPT) visited the Sokolac Psychiatric Clinic.

Sokolac Psychiatric Clinic has taken necessary measures to improve living conditions in the Male Acute Unit and the Forensic Psychiatric Unit and they are:

- Current number of patients in the Male Acute Unit is 20 and in the Forensic Psychiatric Unit (FPU) there are 20 patients and in the Forensic Rehabilitation Unit there are 30 patients, which means that there is at least approximately 4m<sup>2</sup> of living space per patient;
- Bedrooms and living rooms in the units have been equipped with new furniture (wardrobes, bedside cabinets). Decorations of wards and day rooms in wards are adapted to the structure of patients in the respective wards;
  - Patients of the Male Acute Unit and the Forensic Psychiatric Unit use the walking area outside the wards for a 2 hours' walk on a daily basis and for physical exercises. The physical activity of patients is directly related to their actual physical and mental condition. Both these wards have no shelter in case of bad weather and we note that, due to the soon-to-open Institute for Forensic Psychiatry, we avoid parallel spending of funds (space for recreation and physical activity of patients in the Institute meet European standards);
- In the period from 2009 to 2011, the institution gave priority to the strengthening of staff who take care of patients, so 9 new nurses were employed.
- The Male Acute Unit, the Forensic Psychiatric Unit and the Forensic Rehabilitation Unit have plans for individual treatment of each patient and their medical records contain the plan forms filled, psychosocial rehabilitation record forms filled, including programs for prevention of recidivism in the Forensic Psychiatric Unit;
- No autopsy of patients has been performed so far, but in future we plan to perform an autopsy of patients who died after having been involuntarily placed in the hospital;

- Any natural death of patients in our clinic is established by a doctor during working hours or while on standby.
  - In case of violent death of patient, the appropriate police station and the prosecutor on standby are informed;
  - Guidelines concerning the use of means of restraint and they are followed in the acute wards and the Forensic Acute Unit;
  - The procedure of involuntary hospitalization, which is regulated by the Law on Protection of Persons with Mental Disorders, is fully respected and relevant forms are filled in;
  - It is not the responsibility of the institution to influence the courts making a decision on involuntary psychiatric treatment and psychiatric expertise, although at the request of the patient, this institution gives them copies of all court decisions and psychiatric expertise;
  - The Sokolac Psychiatric Clinic clearly and fully respect the legal provisions of involuntary psychiatric treatment;
  - Upon admission, every patient in Sokolac Psychiatric Clinic gets information on the manner and course of treatment and so do their relatives, guardians and representatives of institutions who care about their treatment (Centers for Social Work and Mental Health Centers);
  - A brochure on the rights of patients intended for patients and their families is in process of designing;
  - The Commission for Protection of Persons with Mental Disorders is under the Ministry of Health and Social Welfare of RS;
  - The Head nurse of the Clinic is included in a cycle of train-the-trainer courses for the training of nurses, technicians in the field of mental health, managed by the Ministry of Health and Social Welfare of RS and the Swiss Agency for Development and Cooperation (SDC);
- The Head nurse of the Clinic has made a plan of training courses at the level of the Clinic regarding the operation of our facilities, which will include all medical practitioners of the Clinic.