



CPT/Inf (2012) 17

## **Report**

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

**from 1 to 11 February 2011**

The Government of Serbia has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2012) 18.

Strasbourg, 14 June 2012



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

Ms Dragana Filipović  
Ambassador Extraordinary and Plenipotentiary  
Permanent Representative of Serbia  
to the Council of Europe  
26, avenue de la Forêt Noire  
67000 STRASBOURG

Strasbourg, 27 July 2011

Dear Ambassador,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I enclose herewith the report to the Serbian Government drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) after its visit to Serbia from 1 to 11 February 2011. The report was adopted by the CPT at its 75<sup>th</sup> meeting, held from 4 to 8 July 2011.

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

As regards the request for information and recommendation in paragraphs 14 and 39 respectively, the Committee requests that a response be provided **within three months**.

The CPT would ask, in the event of the responses being forwarded in the Serbian language, that they be accompanied by an English or French translation.

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

Yours faithfully,

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



## I. INTRODUCTION

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

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as “the Convention”), a delegation of the CPT visited Serbia from 1 to 11 February 2011. The visit formed part of the Committee’s programme of periodic visits for 2011, and was the third visit to Serbia to be carried out by the CPT<sup>1</sup>.

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

- Pétur HAUSSON, 1st vice-President of the CPT (Head of delegation)
- Haritini DIPLA, 2nd vice-President of the CPT
- Marzena KSEL
- Jim McMANUS
- Jørgen Worsaae RASMUSSEN
- Antonius VAN KALMTHOUT
- Branka ZOBEC-HRASTAR

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

- Borys WÓDZ, Head of Division
- Isabelle SERVOZ-GALLUCCI.

They were assisted by:

- Clive MEUX, consultant forensic psychiatrist, Oxford (United Kingdom)
- Danica KRALJEVIĆ (interpreter)
- Dusica LISJAK (interpreter)
- Vladimir MARJANOVIĆ (interpreter)
- Spomenka NINČIĆ-ŠOĆ (interpreter)
- Biljana OBRADOVIĆ-VUJNOVIĆ (interpreter).

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<sup>1</sup> The first periodic visit took place in September 2004; at that time, the Party to the Convention was the State Union of Serbia and Montenegro. The CPT’s report on that visit was made public at the request of the Government of Serbia and Montenegro (see CPT/Inf (2006) 18), together with its response (see CPT/Inf (2006) 19). The second periodic visit took place in November 2007. The CPT’s report on this visit was also made public at the request of the Serbian authorities (see CPT/Inf (2009) 1), together with their response (see CPT/Inf (2009) 2).

**B. Establishments visited**

3. The delegation visited the following places of detention:

Establishments under the authority of the Ministry of Interior

- Metropolitan Police Headquarters, 29 November Street, Belgrade
- Novi Belgrade Police Station, Belgrade
- Savski Venac Police Station, Belgrade
- Voždovac Police Station, Belgrade
- Zemun Police Station, Belgrade
- Aleksinac Police Station
- Jagodina Police Station
- Jagodina Traffic Police Station
- Niš District Police Unit
- Požarevac District Police Unit
- Požarevac Police Station
- Smederevo Police Station
- Smederevska Palanka Police Station

Establishments under the authority of the Ministry of Justice

- Belgrade District Prison
- Požarevac-Zabela Correctional Institution
- Požarevac Correctional Institution for Women
- Special Prison Hospital, Belgrade

Establishments under the authority of the Ministry of Health

- Dr Laza Lazarević Special Psychiatric Hospital, Belgrade
- Special Psychiatric Hospital, Gornja Toponica (Niš)

Establishments under the authority of the Ministry of Labour and Social Policy

- Educational Institution for Juveniles, Niš.



**C. Consultations held by the delegation and co-operation received**

4. In the course of the visit, the CPT's delegation held consultations with Svetozar ČIPLIĆ, Minister of Human and Minority Rights, Dragan MARKOVIĆ, Secretary of State at the Ministry of Interior, Periša SIMONOVIĆ, Secretary of State at the Ministry of Health, Suzana PAUNOVIĆ, deputy Minister of Labour and Social Policy, as well as other senior officials from the Ministries of Interior, Justice, Health, and Labour and Social Policy, and from the Prosecutor's Office. In addition, it met Saša JANKOVIĆ, the Serbian Ombudsman and Miloš JANKOVIĆ, deputy Ombudsman for the protection of persons deprived of their liberty in Serbia. Meetings were also held with representatives of the OSCE and UNHCR as well as with members of non-governmental organisations active in areas of concern to the CPT.

A list of the national authorities and organisations consulted during the visit is set out in Appendix II to this report.

The CPT wishes to express its appreciation for the assistance provided to its delegation by the liaison officer designated by the national authorities, Vladimir ŠOĆ, Advisor at the Ministry for Human and Minority Rights.

5. The delegation generally enjoyed very good co-operation from the management and staff in the establishments visited, including rapid access to these establishments as well as the possibility to interview in private persons deprived of their liberty and to consult relevant documentation.

6. That said, the principle of co-operation between States Parties to the Convention and the CPT is not limited to steps taken to facilitate the task of a visiting delegation. It also requires that decisive action be taken to improve the situation in the light of the Committee's recommendations.

In this respect, despite certain improvements that will be described in this report, the delegation was concerned to note that little action had been taken in respect of a number of important recommendations made in the reports on the CPT's previous visits, e.g. as regards prison overcrowding and prison population inflation, alternative sanctions, refurbishment and development of the prison estate (especially in Belgrade), adoption of comprehensive legislation in the area of mental health care, patients' rights and deinstitutionalisation.

Further, the CPT regrets the fact that, despite repeated requests, its delegation was not able to present its preliminary observations at the end of the visit to officials of the most senior political level, in particular the Minister of Justice. The failure of the Serbian authorities to respond to the letter of the President of the CPT, dated 2 September 2010, containing the Committee's comments on the response of the Serbian authorities to the report on the CPT's previous visit in 2007, is also incompatible with the principle of co-operation.

**The CPT calls upon the Serbian authorities at the highest political level to take decisive steps to improve, without further delay, the situation in the light of the Committee's recommendations, in accordance with the principle of co-operation which lies at the heart of the Convention. The CPT also trusts that on future visits to Serbia, its delegations will be able to meet the most senior ranking officials responsible for matters falling within the Committee's mandate.**

**D. Immediate observations under Article 8, paragraph 5, of the Convention establishing the CPT**

7. At the end of the visit, the CPT's delegation met Government officials in order to acquaint them with the main facts found during the visit. On that occasion, the delegation made an immediate observation, in pursuance of Article 8, paragraph 5, of the Convention, and requested the Serbian authorities to confirm, within one month, that the detention area at Zemun Police Station has been taken out of service pending refurbishment. The delegation stressed that the refurbishment in question should include installing proper toilets, heating, artificial lighting and ventilation.

8. Further, the CPT's delegation requested the Serbian authorities to provide, within three months, information about steps taken to ensure that all patients at Gornja Toponica Special Psychiatric Hospital and Dr Laza Lazarević Special Psychiatric Hospital (Belgrade), whose medical condition so permits, are offered the possibility to take outdoor exercise every day.

In addition, the Serbian authorities were requested to provide information on action taken in two cases in which ill-treatment by the police had been alleged.

9. The above-mentioned immediate observations and requests for information were subsequently confirmed in a letter of 23 February 2011.

By letters of 28 March, 5 May and 19 May 2011, the Serbian authorities provided most of the information requested<sup>2</sup> and informed the CPT of measures taken in response to the delegation's immediate observations and comments made in the end-of-visit statement. These measures will be assessed later in the report.

**E. National Preventive Mechanism**

10. The CPT is concerned to note that little progress has been made since the 2007 visit as regards the setting up of the National Preventive Mechanism (NPM), pursuant to the Optional Protocol to the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), ratified by Serbia in 2006. It is noteworthy that in November 2008, the UN Committee against Torture was informed by the Serbian authorities that "*there is an agreement among the political subjects in the Republic of Serbia to appoint the Serbian Ombudsman to be a national mechanism to prevent torture in accordance with the Optional Protocol*".

The delegation was informed during the 2011 visit that the Office of the Protector of Citizens (Ombudsman) was now operational, and that several visits to places of detention had already been carried out by the Ombudsman and his staff.

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<sup>2</sup> See, however, paragraph 14.

However, at the time of the visit, the Ombudsman told the delegation that he had not yet been formally appointed as the NPM and that the necessary resources had not been allocated to his Office. **The CPT would like to receive the comments of the Serbian authorities on the expected time-frame for the designation of the Ombudsman as the National Preventive Mechanism, and information on the resources to be allocated to his Office for the purpose of fulfilling this function.**

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

### A. Establishments under the authority of the Ministry of Interior

#### 1. Preliminary remarks

11. The new Code of Criminal Procedure entered into force in 2010, followed by a series of by-laws related to police issues. That said, the legal framework governing the detention of criminal suspects by the police has basically remained unchanged since the CPT's 2007 visit. Police custody of criminal suspects is limited to a maximum of 48 hours; within this period, detainees have to be either brought before an investigating judge or released. The police must immediately, and at the latest within two hours, issue a provisional detention decision and serve it on the detained person; the person concerned may appeal against this decision to the investigating judge who has to decide on the appeal within four hours of its receipt.

The information gathered by the CPT's delegation during the 2011 visit suggests that the above-mentioned legal time-limits were generally respected, and in practice most detained persons remained in the custody of the police for much shorter periods (i.e. up to 12 hours). However, the police retained the right to issue a summons directing persons to present themselves on police premises to be questioned as witnesses for up to four hours (a procedure commonly referred to as "informative talks"<sup>3</sup>). Police officers as well as officials from the Ministry of Interior provided contradictory opinions as to whether the above-mentioned period of four hours was included in the 48-hour period of police custody. **The CPT would like to receive the comments of the Serbian authorities on this issue.**

Pursuant to the Law on Police, a person disturbing public order may be detained by the police for a maximum period of 24 hours; the person concerned may appeal against his/her detention to the district court.

12. At the outset of the visit, senior officials from the Ministry of Interior told the delegation that they were aware of the fact that most police detention premises were not in line with international standards. The Ministry had planned to close down some of the police establishments and to carry out major renovation works as of 2011. The CPT welcomes these efforts and **would like to be informed of the plans to renovate detention areas in police premises, including the timeframe for these works.**

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<sup>3</sup> See paragraphs 11 and 28 of CPT/Inf (2009) 1, and paragraph 21 below.

## 2. Ill-treatment

13. The delegation received several allegations of physical ill-treatment by the police (consisting of slaps, punches, kicks and truncheon blows) at the time of apprehension and/or during questioning, in the latter case mostly in order to obtain confessions. As was the case in 2007, it would appear that juveniles suspected of serious criminal offences remain particularly exposed to the risk of physical violence at the hands of the police. Further, the delegation received some accounts of verbal abuse and threats during questioning.

**The CPT recommends that police officers throughout Serbia be reminded that all forms of ill-treatment (including verbal abuse) of persons deprived of their liberty are not acceptable and will be the subject of severe sanctions.**

14. In one case, the delegation found medical evidence consistent with allegations of severe ill-treatment made. A remand prisoner interviewed by the delegation at the Special Prison Hospital alleged that, while in police custody on 26 December 2010, he was dragged from the cell to the corridor by four police officers and severely beaten; the ill-treatment alleged consisted of punches, kicks and truncheon blows to various parts of his body. This was apparently repeated on the next day but involving seven officers. He was taken to the Special Prison Hospital on 27 December 2010, but doctors from the hospital refused to admit him due to the severity of his injuries. He was then brought to the Military Hospital in Belgrade where he underwent numerous examinations (including X-rays and CT scan). These examinations revealed *inter alia* a head contusion leading to organic symptoms of trauma, skin excoriations on the head, fractures of facial bones on the left side leading to damage of the sinuses on the left side, and fractures of the transversal processes on the left side of three of the lumbar spine bodies. After that, he was transferred back to the Special Prison Hospital from where he had returned five times to the Military Hospital for further examination (*inter alia* to see whether he would require an orthopaedic operation). When the delegation met him, on 2 February 2011, he still had difficulties walking and had fever because his injured sinus had become infected.

The record of the prisoner's medical examination upon admission at the Special Prison Hospital described injuries which were consistent with the allegations (though the doctor did not record the allegations nor did he draw any conclusions as to the degree of consistency between the allegations made and the objective medical findings/injuries). The inmate told the delegation that he had complained to the investigative judge who had reportedly recorded his allegations and injuries and ordered the medical documentation from the Military Hospital to be sent to him.

As already mentioned (see paragraph 8), at the end of the visit, the delegation requested the Serbian authorities to provide information on any investigation being carried out into the complaints of ill-treatment made by the prisoner concerned. However, such information was not contained in the e-mail communications from the Serbian authorities dated 27 June 2011; instead, the information provided referred to an internal police inquiry concerning the circumstances of the apprehension of the person concerned (up until the moment of his arrival to the police station). Consequently, **the CPT requests the Serbian authorities to provide information concerning investigations into the possible ill-treatment of the person detained at Palilula District Police Station in Belgrade on 26/27 December 2010 and subsequently taken to the Special Prison Hospital, with multiple injuries, on 27 December 2010.**

15. In the Aleksinac, Niš and Voždovac police establishments, the delegation found – in offices used for police interviews – various unlabelled non-standard items (such as wooden sticks and iron rods). **The CPT calls upon the Serbian authorities to take decisive steps to ensure that any non-standard objects are immediately removed from all police premises where persons may be held or questioned. Any items of evidence relating to cases under investigation should be appropriately labelled, recorded and kept in a dedicated property store.**

16. At the outset of the 2011 visit, the Serbian authorities informed the delegation that professional ethics and oversight of police custody were important components of the police reforms engaged several years ago. A commission specifically in charge of following the implementation of recommendations by international bodies, including the CPT, had been set up, dealing with oversight on police custody, conduct of interviews and violations of human rights of persons deprived of liberty while in police custody. A 12-month project involving the OSCE and other partners was in process, promoting technical advances in overseeing the activities of the police.

Further, in 2010, fifteen one-day training seminars for custody officers had been organised. In this respect, **the CPT recommends that the Serbian authorities continue to develop professional training of police officers, with a view to ensuring that all new recruits receive adequate initial training and that police officers already in service are offered systematic ongoing training, related to human rights, professional ethics, conduct of interviews, handling of high-risk situations, etc.**

17. At the outset of the visit, the Serbian authorities informed the delegation that there was now a unified system for recording complaints against police misconduct. The Ministry of Interior indicated that some 4,000 such complaints had been registered in 2010, including some 300 concerning torture or other forms of ill-treatment, and that four police officers had been charged with ill-treatment as a result of investigations in the course of that year.

In order to obtain a comprehensive and updated picture of the situation, **the Committee would like to receive the following information, in respect of 2010 and the first half of 2011:**

- **the number of complaints of ill-treatment made against law enforcement officials and the number of criminal/disciplinary proceedings which have been instituted as a result;**
- **an account of criminal/disciplinary sanctions imposed following such complaints.**

18. The CPT is concerned to note that little progress has taken place since the 2007 visit as regards the role played by prison health-care services in the prevention of ill-treatment<sup>4</sup>. The procedure as regards the recording of injuries observed on newly-arrived prisoners and their reporting continued to leave much to be desired. Injuries were often described in a superficial manner in the medical files, prisoners' statements were not always recorded, and there were no doctor's conclusions on the consistency of the injuries with these statements.

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<sup>4</sup> See paragraph 91 of CPT/Inf (2006) 18 and 20 of CPT/Inf (2009) 1, as well as paragraph 38 below.

Moreover, injuries observed on prisoners were not systematically reported to the relevant prosecutor. It should also be added that the system for recording of injuries was different in each of the prisons visited.

**The CPT calls upon the Serbian authorities to take immediate steps to ensure that the record drawn up following the medical examination of newly-arrived prisoners contain: (i) a full account of statements made by the person concerned which are relevant to the medical examination (including his description of his state of health and any allegations of ill-treatment), (ii) a full account of objective medical findings based on a thorough examination, and (iii) the doctor's conclusions in the light of (i) and (ii), indicating the degree of consistency between any allegations made and the objective medical findings. Whenever injuries are recorded which are consistent with allegations of ill-treatment made by a prisoner (or which, even in the absence of the allegations, are indicative of ill-treatment), the record should be systematically brought to the attention of the relevant prosecutor, regardless of the wishes of the person concerned. Further, the results of every examination, including the above-mentioned statements and the doctor's conclusions, should be made available to the prisoner and his lawyer. The same approach should be followed whenever a prisoner is brought back to prison by the police, after having participated in investigative activities.**

### **3. Safeguards against the ill-treatment of persons deprived of their liberty**

19. In the main, the legal provisions containing formal safeguards against ill-treatment of persons detained by the police (and in particular the right of detained persons to inform a close relative or another third party of their situation, to have access to a lawyer, and to have access to a doctor) have remained unchanged since the 2007 visit<sup>5</sup>. Whilst the situation in Serbia can be considered relatively favourable in this respect, the CPT remains concerned by certain lacunae of the current legislation and persistent shortcomings in its implementation.

20. As regards notification of custody, the delegation observed that this right continued to be generally granted to persons detained by the police shortly after their apprehension. That said, the fact that such notification was as a rule performed by police officers and not by the detained person concerned directly resulted in some detainees entertaining doubts as to whether the notification had in fact been made. **The CPT recommends that steps be taken to ensure that detained persons are provided with feedback on whether it has been possible to notify a close relative or other person of the fact of their detention.**

21. Most of the persons interviewed by the delegation confirmed that they had been offered the possibility of contacting a lawyer shortly after apprehension. This usually included the presence of the (most often *ex officio*) lawyer during the questioning and the possibility to meet the lawyer in private.

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<sup>5</sup> See paragraphs 22 to 33 of CPT/Inf (2009) 1.

However, as had been the case during the 2007 visit, the legislation in force failed to mention the exact time when the right of access to a lawyer becomes effective. In practice, it would appear that such access was not always granted to persons in police custody as from the very moment when they were obliged to remain with the police. Further, the current law still does not expressly grant the right of access to a lawyer to persons summoned to the police, obliged to remain in a police establishment and interviewed as “witnesses”. **The CPT reiterates its recommendation that the Serbian authorities take steps to ensure that the right of access to a lawyer applies effectively as from the very outset of the deprivation of liberty by the police. Anyone who is under a legal obligation to attend and stay at a police establishment (e.g. as a "witness") should also be expressly granted the right of access to a lawyer.**

22. As had been the case during the 2007 visit, several detained persons who had benefited from the services of *ex officio* lawyers complained about the quality of their work; in particular, the *ex officio* lawyers apparently met their clients only once (in court), and often tried to convince them to confess to the offence for which they were being charged. Once again, the delegation heard some allegations that the choice of a particular lawyer had been imposed on the persons concerned by the police.

**The Committee calls upon the Serbian authorities to step up their efforts to ensure that the system of legal aid for persons in police custody operates effectively; this should be done in co-operation with the relevant bar associations.**

23. Concerning the right of access to a doctor, pursuant to Section 5(3).3 of the Code of Criminal Procedure, “any person deprived of liberty can request to be examined, at his own request and without delay, by a physician of his choice, or if unavailable, a physician selected by the detention authority or the investigating judge”. That said, information on this right was not always readily available to the persons concerned (see below, paragraph 24).

The information gathered by the delegation indicated that the police did not hesitate to call an ambulance if a person in their custody required medical assistance. However, such calls for medical assistance were not always properly recorded in the relevant documentation in the police establishments concerned. **The CPT recommends that this failure be remedied.**

24. The CPT’s delegation noted that written information on rights was generally provided to persons shortly after their apprehension by the police. However, the various information sheets concerning particular legal categories of detained persons contained different – and mostly incomplete – catalogues of rights.

For example, the sheets for criminal suspects did not mention the right to notify a third party of one’s situation, and those for persons detained pursuant to the Police Act (i.e. on public order grounds) did not mention the right to a lawyer. Further, neither of these sheets mentioned the possibility of having access to a doctor. The information sheets for detained juveniles contained the most complete catalogue of rights, including the right to be examined by a doctor, although the manner in which this latter right was formulated suggested that such a service would always have to be paid for by the juvenile or his parent/guardian.



In addition, the information sheets existed only in Serbian or English. No translations in other relevant languages (in particular those spoken by representatives of minorities) were available

**The CPT recommends that steps be taken to address the above-mentioned situation. Persons apprehended by the police, on whatever grounds, should be systematically provided with a standard and comprehensive information sheet, setting out in a straightforward manner all their rights (including the right of access to a doctor). The sheet should be made available in an appropriate range of languages (including the minority languages). Particular care should be taken to ensure that detained persons are actually able to understand their rights; it is incumbent on police officers to ascertain that this is the case.**

25. At Aleksinac Police Station, the delegation was informed by the police officers that written information on rights was only provided to apprehended criminal suspects, while persons detained pursuant to the Police Act would be informed of their rights orally. **The Committee would like to receive the comments of the Serbian authorities on this questionable practice.**

26. As had been the case during the previous visits to Serbia, there was no unified system of keeping custody records, and the periods spent by persons in police custody were poorly documented in the majority of the establishments visited. This was particularly the case with persons apprehended pursuant to the CCP, for whom the documentation of custody continued to be either inexistent (the delegation was again told that such data would be in individual files or in the remand prisons to which the persons were sent) or very cursory (with missing information on the date and time of release, on the establishment to which the person had been transferred, etc). Moreover, in cases when a person had been transferred from one police establishment to another, the records available did not make it possible to verify the total period the person had spent in police custody<sup>6</sup>.

**The CPT reiterates its long-standing recommendation that steps be taken to ensure that whenever a person is deprived of his liberty by the police, for whatever reason, this fact is duly recorded without delay. Further, the Committee calls upon the Serbian authorities to introduce, as a matter of priority, standard-format and comprehensive custody registers, to be kept at each police establishment and to contain information on all aspects of the person's custody and all the action taken in connection with it.**

27. Similar to the situation observed on the 2007 visit, Serbia had no system for effective monitoring of police establishments by independent outside bodies<sup>7</sup>. In this context, the delegation was concerned to hear complaints from several NGOs specialised in detention matters about their lack of access to police facilities. **The CPT reiterates its recommendation that the Serbian authorities develop a system for independent monitoring of police detention facilities. To be fully effective, monitoring visits should be both frequent and unannounced. Further, the monitoring bodies should be empowered to interview detained persons in private and examine all issues related to their treatment (material conditions of detention; custody records and other documentation; the exercise of detained persons' rights, etc.).**

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<sup>6</sup> This was in particular the case in Jagodina.

<sup>7</sup> Despite the existence of a number of bodies entitled to visit places where persons are detained by the police (e.g. the Ombudsman, judges and prosecutors).

#### 4. Conditions of detention

28. As already mentioned (see paragraph 11), the actual period of detention in the police establishments visited rarely exceeded 12 hours. That said, overnight stays were not uncommon and the delegation found cases where persons had spent up to 48 hours in police stations, in particular in Belgrade.

29. The delegation's findings during the 2011 visit were similar to what had been found in 2007. Cells in most police stations visited were unsuitable for holding persons for more than a few hours, and certainly not for overnight accommodation; Požarevac Police Station was a notable exception. This facility had a well-maintained and clean cell measuring some 11 m<sup>2</sup>, with a small window providing natural light; artificial lighting was sufficient, and the in-cell floor-level toilet was clean.

Nearly all the police detention areas visited were in a poor state of repair and cleanliness (apart from the Metropolitan Police Headquarters in Belgrade, as well as Jagodina and Požarevac Police Stations). The cells had hardly any access to natural light, windows being usually covered with screens with small holes. Artificial lighting was out of order at Niš and very poor at Aleksinac, Novi Belgrade and Savski Venac (Belgrade), and ventilation was a problem at Aleksinac, Niš, Novi Belgrade and the Metropolitan Police Headquarters.

The equipment of the cells consisted of a concrete or wooden sleeping platform (e.g. Aleksinac, Jagodina, Niš, Novi Belgrade, Požarevac and Savski Venac), or a bench (Metropolitan Police Headquarters in Belgrade, Voždovac); mattresses were not provided for the night (except at Jagodina, Niš and Požarevac, where a mattress and a pillow had been provided since the beginning of the year), but blankets – though often dirty – were seen in all police establishments visited. The toilets and washing facilities located either inside the cells or in the corridors, were generally in a poor state of repair and sometimes dirty. None of the police cells was properly heated, and some cells did not even have any heating installation (e.g. one of the two cells at Novi Belgrade). With the exception of the cells at Novi Belgrade, none of the cells visited had a call system. Formal arrangements for the provision of food to detained persons existed only at Jagodina and Niš police facilities<sup>8</sup>; however, in practice it appeared that detainees usually received food from their families. There was no outdoor exercise area or arrangements in any of the establishments visited<sup>9</sup>.

Cell sizes varied from establishment to establishment, and in some cases were inadequate for overnight stays; this was particularly true of the small cell (3.7 m<sup>2</sup>) seen at Aleksinac Police Station.

30. The worst conditions were observed at Zemun Police Station (Belgrade). There were seven windowless cells in the detention area, three of which officially in use, and four other cells reportedly serving as storage. Two of the detention cells had no heating, no ventilation and only poor artificial lighting. The third cell, accommodating one person at the time of the visit, had better artificial lighting and was equipped with a wooden platform; the detainee was provided with two blankets which were meant to offer him some protection from the cold.

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<sup>8</sup> According to the staff of these establishments, food was offered to persons detained for more than 12 hours.

<sup>9</sup> Despite Section 36 of the Rules on Police Powers, according to which persons detained for more than 12 hours must be allowed outdoor exercise, save for security reasons.

None of the cells was fitted with toilets, and the strong smell as well as large damp patches in the cell corners clearly indicated that inmates were often not taken out of their cells to comply with the needs of nature. The so-called toilet facility of the detention area was situated at the end of the cell block, and consisted of a filthy hole in the ground; it had clearly not been cleaned for some time. There was no access to natural light in the toilet, no artificial lighting and no ventilation. It is noteworthy that the consultation of custody registers revealed that persons had recently been detained for up to 48 hours at Zemun Police Station.

As already mentioned (see paragraph 7), at the end of the visit, the delegation made an immediate observation pursuant to Article 8, paragraph 5, of the Convention and requested the Serbian authorities to take the detention area at Zemun Police Station out of service pending refurbishment. The delegation stressed that the refurbishment in question should include installing toilets worthy of the name, heating, artificial lighting, ventilation and a call system; opportunity should also be taken to clean the cells and to clear the debris which had accumulated in the unused cells.

In their letter dated 28 March 2011, the Serbian authorities informed the Committee that the detention area at Zemun Police Station had been taken out of service and that its refurbishment had begun. The CPT welcomes this.

31. As already mentioned in paragraph 12, the Serbian authorities had planned major renovation works as of 2011, as well as the closing of down some of the police detention facilities. By way of example, the two cells seen at Jagodina Police Station were being refurbished at the time of the visit.

**The CPT reiterates its recommendation that the Serbian authorities step up their efforts to improve material conditions in police cells. More specifically, the following measures should be taken as a matter of priority:**

- **ensure that all police cells where persons may be held overnight are of a reasonable size for their intended occupancy (i.e. 7 m<sup>2</sup> for single cells, and at least 4 m<sup>2</sup> per person in multi-occupancy cells);**
- **improve in-cell lighting (i.e. sufficient artificial lighting to read by – sleeping periods excluded – and preferably access to natural light), ventilation and heating;**
- **ensure that all cells used for overnight detention are equipped with a means of rest suitable for such stays (e.g. a bed or a sleeping platform), and that persons kept in custody overnight receive a clean mattress and blankets;**
- **offer food, including at least one full meal, at appropriate intervals to detained persons, as provided for in Serbian regulations; this implies that police establishments should be allocated a specific budget for this purpose;**
- **ensure that persons in police custody are allowed to comply with the needs of nature when necessary in clean and decent conditions, and that the toilet and washing facilities are in a good state of repair.**

In addition, the need for outdoor exercise facilities for detained persons should also be taken into account in the above-mentioned renovation plan of police detention facilities. Meanwhile, **the CPT recommends that steps be taken to ensure, as far as possible, that persons detained by the police for 24 hours or more are offered at least one hour of outdoor exercise per day.**

## **B. Establishments under the authority of the Ministry of Justice**

### **1. Preliminary remarks**

32. The CPT's delegation carried out follow-up visits to Belgrade District Prison and Požarevac-Zabela Correctional Institution, where it focused its attention on the high security and remand sections, as well as the Special Department. A first-time visit was carried out to the Požarevac Correctional Institution for Women. Further, a follow-up visit was paid to the Special Prison Hospital, which is described in a separate section (see paragraphs 78 to 90).

33. Since the last CPT visit to Serbia in 2007, a number of changes have been made to the legislative framework pertaining to imprisonment. For example, a new Law on the Execution of Prison Sentences for Criminal Offences of Organised Crime was adopted in 2009, which rendered the maximum security building located within the perimeter of Požarevac-Zabela Correctional Institution operational<sup>10</sup>. Amendments to the Criminal Code (CC) have further developed the range of alternative sanctions<sup>11</sup>, including the possibility for a person sentenced to imprisonment of up to one year to serve his/her term at home, and electronic surveillance<sup>12</sup>. In addition, a new Law on the Execution of Criminal Sanctions (LECS) entered into force in 2009, slightly amending the 2006 version of the LECS.

34. At the time of the visit, the prison population stood at around 11,500 (compared to 9,000 at the time of the 2007 visit)<sup>13</sup> for a maximum capacity of 6,500 calculated applying the standard of 4 m<sup>2</sup> of living space per prisoner.

Overcrowding was observed in all the establishments visited. The situation was of particular concern at Belgrade District Prison, which at the time of the visit accommodated 1,656 inmates for a capacity of some 800.

At the outset of the visit, the delegation was informed by the Serbian authorities about ongoing refurbishment in some prisons; further, a new high-security facility (with a capacity of 450) located within the penitentiary complex of Padinska Skela would be put into operation in the near future. Two other prison building projects<sup>14</sup>, as well as renovation of the semi-closed type facility for juveniles in Kruševac, were also under consideration.

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<sup>10</sup> The building in question was visited by the CPT in 2007 while it was not yet in use (see paragraph 54 of CPT/Inf (2009) 1).

<sup>11</sup> I.e. parole, community service and suspended sentences. According to the information provided to the delegation during the meeting at the Ministry of Justice, the sanction of community service had been imposed on 42 persons in 2009 and 40 in 2010, while parole had been granted to 14 persons in 2009, and nine in 2010.

<sup>12</sup> There had been the three first court decisions imposing electronic surveillance in 2010, and 10 more in January 2011.

<sup>13</sup> It is interesting to note the evolution of the prison population: 6,200 in 2002; 7,600 in 2004; 7,900 in 2006; 9,700 in 2008.

<sup>14</sup> In Pančevo and Kragujevac, for a total capacity of 1,000 inmates.

In addition, in July 2010, the Serbian Government adopted a Strategy for Reducing Overcrowding in Institutions for Enforcement of Criminal Sanctions in the Republic of Serbia; the Strategy focused on alternative sanctions, especially for sentences of up to six months of imprisonment (representing some 55% of the prison sentences)<sup>15</sup>. The Strategy identified the frequent resort to remand detention (with remand prisoners representing some 1/3 of the prison population), combined with an increase in the number of sentences to imprisonment and an insufficient resort to release on parole, as the main reasons for prison overcrowding in Serbia. An Action Plan to implement the above-mentioned Strategy was under preparation at the time of the CPT's visit. It would *inter alia* include further amendments of the Criminal Procedure Code, the LECS, and the House Rules in correctional institutions and district prisons.

The Serbian authorities informed the delegation that three probation offices had been put into operation recently and three more were to open in the near future. Further, it was intended to introduce the institution of a judge responsible for the execution of sentences.

While taking due account of these different elements, the CPT also notes the amendment to the CC, introduced in 2009, according to which release on parole can only be considered after serving two thirds of the sentence (instead of half of the sentence prior to this amendment). Further, as the Serbian authorities themselves acknowledged in the above-mentioned Strategy, there has been an important decrease in the percentage of releases on parole in recent years. In addition, early release can now be granted not earlier than three months prior to the end of the sentence, and only if the inmate concerned has served 90% of the sentence. **The Committee would like to receive the comments of the Serbian authorities on these apparent policy contradictions.**

Further, **the CPT would like to know whether the Action Plan to implement the above-mentioned Strategy has been adopted, and would like to receive a copy of the said Action Plan in due course.**

35. The CPT wishes to reiterate that a strategy for a sustainable reduction of prison overcrowding should include a variety of steps to ensure that imprisonment is really the measure of last resort. This implies, in the first place, an emphasis on non-custodial measures in the period before the imposition of a sentence and the availability to the judiciary, especially in less serious cases, of alternatives to custodial sentences together with an encouragement to use those options. Further, the adoption of measures to facilitate the reintegration into society of persons who have been deprived of their liberty could reduce the rate of re-offending<sup>16</sup>. Efforts to step up the training to judges and prosecutors with a view to promoting the use of alternatives to imprisonment must form an integral part of this strategy.

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<sup>15</sup> According to the above-mentioned Strategy, some 90% of the prison sentences in Serbia were not longer than two years of imprisonment. According to the 2009 Prison Administration statistics, 72 % of persons sentenced in 2009 had received sentences of up to two years of imprisonment, and 62 % up to one year.

<sup>16</sup> See paragraph 57 below.

The CPT calls upon the Serbian authorities to redouble their efforts to combat prison overcrowding, in the light of the above-mentioned remarks. In so doing, the Serbian authorities should be guided by Recommendation Rec(99)22 of the Committee of Ministers of the Council of Europe concerning prison overcrowding and prison population inflation, Recommendation Rec(2000)22 on improving the implementation of the European rules on community sanctions and measures, Recommendation Rec(2003)22 on conditional release (parole) and Recommendation Rec(2006)13 on the use of remand in custody.

Further, in the context of the training provided to judges and prosecutors, efforts should be made to promote the use of alternatives to imprisonment. In addition, greater use should be made of conditional release.

36. The situation as regards the provision of organised activities (work, training, education, sports, etc.) to inmates in the closed sections of the prison establishments visited was highly unsatisfactory<sup>17</sup>. As regards in particular remand prisoners, the almost total lack of activities aggravated the experience of imprisonment and rendered it more punitive than the regime for sentenced persons. Taken together with limited living space, poor material conditions and restrictions on contact with the outside world and association, this produced a regime which was oppressive and stultifying. **The CPT recommends that the Serbian authorities step up their efforts to develop the programmes of activities for sentenced and remand prisoners. The aim should be to ensure that both categories of prisoner are able to spend a reasonable part of the day (eight hours or more) outside their cells, engaged in purposeful activities of a varied nature (work, education, vocational training, sport, etc).**

## 2. Ill-treatment

37. No allegations of physical ill-treatment of prisoners by staff were received at *Požarevac Correctional Institution for Women* and at the *remand section of the Požarevac-Zabela Correctional Institution*. As regards the latter establishment, the atmosphere was visibly better than that observed during the 2007 visit.

However, the delegation did receive some allegations of physical ill-treatment of prisoners by staff at *Belgrade District Prison*, as well as of verbal abuse. In one recent case, an inmate alleged that he had been taken out of his cell, brought in the stairway – where there was no CCTV coverage – and beaten by custodial staff (punched and kicked) because he had refused to separate two of his co-inmates fighting in the cell. The inmate concerned saw the prison doctor on the following day, who recorded the following information: haematomas in the region of the right shoulder (20 cm x 20 cm, and 30 cm x 30 cm), redness and swelling under the right eye (5 cm x 5 cm). However, the medical record did not mention any cause for the injuries. The inmate lodged a complaint concerning this incident, through his mother. **The CPT would like to receive in due course information on the outcome of the investigation carried out following this complaint.**

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<sup>17</sup> See paragraphs 53 to 55 below.

Many allegations of physical ill-treatment of prisoners by staff were heard in the *high security unit (Pavilion VII) of Požarevac-Zabela Correctional Institution*; the ill-treatment alleged consisted of truncheon blows and kicks and related to staff responding to minor violations of prison discipline. That said, there seemed to have been a decrease in the number of ill-treatment allegations, coinciding with the appointment of a new prison director and a new head of security department in the spring of 2010.

**The Committee recommends that the management of Požarevac-Zabela Correctional Institution deliver a clear reminder to all the custodial staff that the ill-treatment of prisoners, in any form, is unacceptable and that anyone committing, aiding and abetting or tolerating such abuses will be severely punished. The establishment's management should demonstrate increased vigilance in this area by ensuring the regular presence of prison managers in the detention areas (including the high security unit), their direct contact with prisoners, the investigation of complaints made by prisoners, and improved staff training. Further, in the context of the prevention and investigation of ill-treatment, consideration should be given to more extensive CCTV coverage, coupled with secure recordings and an adequate policy of storage of the recorded data.**

**A similar reminder should be given to staff at Belgrade District Prison.**

38. The CPT has already stressed in its reports on the two previous visits to Serbia that the prison health-care services can make a significant contribution to the prevention of ill-treatment of detained persons through the systematic recording of injuries and, if appropriate, the provision of information to the relevant authorities. The examination of medical records at Belgrade District Prison and Požarevac-Zabela Correctional Institution showed that the recording and reporting of injuries observed on prisoners, both upon admission or during their stay in the establishments, continued to leave much to be desired. Reference should be made to the recommendations on this subject already made in paragraph 18.

In addition, inmates told the delegation that medical staff at Požarevac-Zabela Correctional Institution was reluctant to record such injuries and react to allegations of ill-treatment. **The CPT recommends that steps be taken to ensure that medical staff at Požarevac-Zabela Correctional Institution are aware of their responsibilities in this respect.**

39. During the 2007 visit, the CPT received information concerning the death of prisoner X. on 17 July 2005, on his way from Požarevac-Zabela Correctional Institution to the Special Prison Hospital in Belgrade; the Committee requested to be kept informed of the progress of the criminal investigation into this case and of its outcome<sup>18</sup>. During the 2011 visit, the Prosecutor General of Serbia indicated that the case was still under investigation. By a decision of the Belgrade Appeals Court dated 2 November 2010, the case had been transferred back to the Municipal Court of Požarevac for further investigation after the refusal by the Požarevac investigative judge to open a criminal investigation and the subsequent appeal by the mother of the deceased prisoner. The Prosecutor General also indicated that his Office was carefully following the procedure with a view to taking over the case, as foreseen by the CPC.

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<sup>18</sup> See paragraph 43 of CPT/Inf (2009) 1.



The Committee is concerned to note that little progress has been made in the investigation into the cause of the death of the prisoner concerned since the 2007 visit. **The CPT calls upon the Serbian authorities to attach high priority to the timely completion of the investigation into the death of prisoner X. on 17 August 2005, and in so doing to take due account of the comments made by the CPT in paragraph 43 of the report on the 2007 visit.**

40. No progress has been made at Belgrade District Prison and Požarevac-Zabela Correctional Institution as regards the practice of custodial staff carrying truncheons in full view of inmates. As already mentioned in the 2004 and 2007 visit reports, this is not conducive to developing good relations between staff and prisoners. **The CPT recommends that steps be taken without further delay to ensure that prison staff do not carry truncheons in a visible manner inside detention areas; if it is deemed necessary for staff to carry truncheons, they should be hidden from view.**

### 3. Conditions of detention

#### a. material conditions of detention

##### *i. follow-up visit to Belgrade District Prison*

41. Some refurbishment had taken place in the main building of Belgrade District Prison since the CPT's 2007 visit. Offices in the detention areas had been turned into cells, with fully partitioned sanitary annexes. These cells were properly furnished and benefited from adequate artificial lighting. In addition, the shower rooms in all the blocks had been recently renovated, as well as the prison kitchen.

Having said that, the rest of the accommodation areas continued to provide unacceptable conditions of detention, especially in the blocks on the ground floor (admission, remand, solitary confinement and disciplinary cells). The prison continued to display structural deficiencies described in the reports on the two previous visits<sup>19</sup>. These conditions were aggravated by the increased overcrowding<sup>20</sup>; for example, it was not uncommon for four inmates to share a cell measuring 9 m<sup>2</sup>, eight inmates to be accommodated in a cell of 21 m<sup>2</sup>, and 14 inmates in a cell of 35 m<sup>2</sup>. In addition, a few inmates did not have a bed and had to sleep on a mattress on the floor.

The toilets inside the cells on the ground floor (except for the very few new cells) were still not partitioned, and most of them were in a poor state of repair. Bedding was not always provided, except for mattresses. Further, personal hygiene items and products to clean the cells were rarely available, including to indigent prisoners.

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<sup>19</sup> In particular, there was still no direct access to natural light in any of the cells, and artificial lighting was totally inadequate in the cells on the ground floor. See also paragraphs 99 to 104 of CPT/Inf (2006) 18 and 48-49 of CPT/Inf (2009) 1.

<sup>20</sup> See paragraph 34.

The delegation saw a 6 m<sup>2</sup> cell on the ground floor of Block 3, accommodating two inmates, where one quarter of the ceiling had collapsed and water was dripping from the sanitary facility in the cell above; large chunks of plaster were missing from the cell walls. The delegation asked the management of the establishment to take this cell, which was unfit for human habitation, out of use until necessary repairs were carried out.

42. The delegation received a number of complaints about the quality of the food provided, which was reportedly monotonous, lacking vegetables, fruit and dairy products.

43. These overall unacceptable material conditions were exacerbated by the fact that remand prisoners remained confined for some 23 hours a day inside their cells, in some cases for several years. As noted in the report on the 2007 visit, such a situation could well be considered as amounting in itself to inhuman and degrading treatment<sup>21</sup>.

44. The CPT has stressed in the reports on its previous visits to Serbia that only a comprehensive programme of refurbishment could address the shortcomings at Belgrade District Prison, implying investing significant funds. In the light of what the delegation observed during the 2011 visit, the Committee cannot but express its deep concern that little effort had been made since the 2007 visit to address the ever-worsening situation of the inmates held at this establishment.

**The CPT once again calls upon the Serbian authorities to devise, as a matter of high priority, a comprehensive and fully budgeted refurbishment programme for Belgrade District Prison, with precise timetables. The aim of this programme should be, in particular, to remedy the current structural deficiencies of the prison's main detention building and ensure that all the cells benefit from adequate access to natural light, artificial lighting, ventilation and heating; cells should also be equipped with a call system and electrical sockets. The Committee would like to be informed of the progress in the adoption and implementation of this refurbishment programme.**

45. **In the meantime, the CPT calls upon the Serbian authorities to take urgent steps in order to:**

- **reduce significantly the occupancy level in the cells at Belgrade District Prison, the objective being to comply with the standard of 4 m<sup>2</sup> of living space per prisoner in multi-occupancy cells;**
- **ensure that each inmate has a bed;**
- **refurbish the toilets (including the provision of a full partition), especially on the ground floor of the main facility;**
- **supply all inmates with appropriate bedding (including pillows), which should be cleaned at regular intervals, and with a range of personal hygiene items and of products to clean their cells;**
- **review the quality of the food provided to prisoners.**

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<sup>21</sup> See paragraph 48 of CPT/Inf (2009) 1.

Further, the CPT would like to receive confirmation that the cell located in Block 3 of Belgrade District Prison, referred to in paragraph 41 above, has been taken out of use pending refurbishment.

46. The delegation received complaints from non-smoking inmates about exposure to cigarette smoke within the cells. In this regard, **the CPT encourages the management of Belgrade District Prison – and of other penitentiary establishments in Serbia – to provide, as far as possible, areas free from passive smoking (which is known to have negative consequences for health) to prisoners who request this.**

*ii. follow-up visit to Požarevac- Zabela Correctional Institution*

47. At the time of the visit, Pavilion VII of the closed section<sup>22</sup> of Požarevac-Zabela Correctional Institution was accommodating 235 inmates (placed there for security reasons or in solitary confinement on disciplinary grounds) in 83 cells. A large part of the basement of the Pavilion had been refurbished<sup>23</sup>. Twelve new cells – of the same design as the other cells in the rest of the unrenovated building – had been put into service. Measuring some 9 m<sup>2</sup>, they each accommodated two inmates. The cells were adequately furnished and had a half-partitioned floor-level toilet. Access to natural light and artificial lighting were adequate. The basement also had a new shower room, and another shower facility was under construction.

In the rest of the building, only the shower rooms had undergone some repair work (tiles, some pipes and showerheads replaced), and the activity rooms had been converted into offices. The 9 m<sup>2</sup> cells – accommodating from two to four inmates each – had remained in the same poor, dilapidated and dirty state as in 2007<sup>24</sup>.

48. The remand section was accommodating 63 inmates<sup>25</sup> (including four women, two foreign nationals, one remand prisoner under treatment at the Special Prison Hospital, and four misdemeanour detainees) in 11 cells at the time of the visit. The delegation noted that genuine efforts had been made to improve the material conditions in some of the cells: floors had been covered with new linoleum, walls had been plastered and painted, and fully partitioned sanitary annexes (with either a floor-level toilet and a shower in the large cells, or a toilet in the small cells) had been installed. There were plans to renovate the rest of the cells. In addition, ventilation fans had been provided in most of the cells, as well as television sets.

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<sup>22</sup> The closed section of the establishment held some 1,100 inmates at the time of the visit.

<sup>23</sup> The semi-open section had also been refurbished, as well as the in-patient facility, and central heating had been installed in all pavilions except in two.

<sup>24</sup> See paragraph 55 of CPT/Inf (2009) 1.

<sup>25</sup> The maximum capacity of the remand section was 34 prisoners, in accordance with the legal standard of 4 m<sup>2</sup> of living space per inmate.

That said, the cells remained overcrowded (e.g. eleven inmates in some 22 m<sup>2</sup>, eight inmates in some 15 m<sup>2</sup>), and the unrenovated cells were dirty and dilapidated<sup>26</sup>. Further, the cell accommodating women was cold, poorly ventilated and infested with cockroaches, and the blankets provided to the female remand prisoners were particularly dirty. This highly unfavourable state of affairs was exacerbated by the fact that the inmates concerned could spend months if not years in such conditions (at the time of the visit, one of the inmates had spent almost three years and a half there), locked in their cells for at least 23 hours a day.

The common shower room, which had not benefited from any renovation, was dilapidated and very damp due to the absence of any ventilation system, and inmates complained that the water was sometimes cold<sup>27</sup>.

49. Persons detained pursuant to the Law on Misdemeanours<sup>28</sup> (four of them at the time of the visit) were held in a separate cell (21 beds in 38 m<sup>2</sup>) adjacent to a common room equipped with a television. They benefited from an open-door regime during the day and could access the common room and an open air yard. The delegation noted that there had never been more than 12 detainees at a time in this cell during the preceding two years. **The number of beds in this cell should be reduced, taking into account the standard of 4 m<sup>2</sup> of living space per detainee.**

50. In the light of the above remarks, **the CPT recommends that steps be taken at Požarevac-Zabela Correctional Institution in order to:**

- **reduce the cell occupancy levels, the objective being to comply with the standard of 4 m<sup>2</sup> of living space per person in multi-occupancy cells;**
- **continue the refurbishment of Pavilion VII and of the remand section, so as to remedy the deficiencies described in paragraphs 47 and 48 (including as regards heating, ventilation, toilets and showers); in this context, all in-cell sanitary facilities should be fully partitioned;**
- **ensure that all prisoner accommodation areas are kept clean; this should include the provision to inmates of a range of personal hygiene items and products to clean their cells;**
- **ensure that bedsheets and blankets are regularly washed.**

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<sup>26</sup> See paragraph 56 of CPT/Inf (2009) 1.

<sup>27</sup> Inmates had the right to one shower per week in the winter and two in the summer.

<sup>28</sup> Such persons could be detained for up to 30 days (and up to 60 days in the case of minor offences putting the life and health of other people at risk).

iii. *Požarevac Correctional Institution for Women*

51. The Požarevac Correctional Institution for Women is the only penitentiary establishment for women in Serbia and is located within the town of Požarevac. It dates back to the end of the 19th century, and comprises two accommodation buildings (one large two-storey building for the two closed and two semi-open sections, as well as the admission section<sup>29</sup>, and a small one-storey building for the open section), a two-storey infirmary, a dining hall, a garment factory and a craftwork building. The compound also contained several open areas for outdoor exercise and sports.

With an official capacity of 160, including the in-patient facility, the establishment was accommodating 202 inmates at the time of the visit (91 in the closed sections, 94 in the semi-open sections and 17 in the open section). These figures included four persons on admission, 13 prisoners sentenced for misdemeanours and 13 inmates at the hospital (including a mother and her baby). There were no juveniles at the establishment at the time of the visit. The open and semi-open sections had undergone some refurbishment (replacement of windows, re-plastering and painting in some cells) and offered adequate material conditions (bright and airy cells, decorated and equipped with beds, tables, chairs and cupboards or lockers).

Section 2 – one of the two closed sections – had also been recently renovated, and offered on the whole adequate conditions. However, this was not the case for the other closed section (Section 1), where the cells were dilapidated and in need of refurbishment. Further, the shower room and toilet facilities of Section 1 were humid, dilapidated and in need of re-plastering after treatment against mould. The management of the establishment informed the delegation of plans to refurbish the section.

In certain cells of the closed sections, the standard of 4 m<sup>2</sup> of living space per prisoner was being met (e.g. seven inmates in 36 m<sup>2</sup>, five inmates in some 25 m<sup>2</sup>). However, this was not the case in other cells, where inmates lived in cramped conditions (e.g. four persons in cells measuring some 10 m<sup>2</sup>, eight persons in 25 m<sup>2</sup>). It should be noted nevertheless<sup>30</sup> that inmates from the closed sections benefited from an open-door regime during the day in their respective sections.

**52. The CPT recommends that steps be taken at Požarevac Correctional Institution for Women to reduce the cell occupancy levels, the objective being to comply with the standard of 4 m<sup>2</sup> of living space per person in multi-occupancy cells. Moreover, efforts to refurbish the detention areas, especially in the closed regime Section 1, should be pursued; the Committee would like to be informed of the timeframe for the refurbishment of that section.**

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<sup>29</sup> The admission section was undergoing refurbishment at the time of the visit.

<sup>30</sup> See paragraph 56 below.

b activities

53. All remand prisoners at *Belgrade District Prison* could have battery-operated TV and radio sets in their cells<sup>31</sup>. However, there were no common/recreation rooms and the indoor gym visited in 2007 had been converted into a court room. No work, education or vocational training opportunities were provided. The only out-of-cell activity available to remand prisoners was outdoor exercise, for up to one hour per day during the week and half an hour on weekends. One of the yards at Belgrade District Prison had been provided with some sport equipment, and prisoners were allowed to practice jogging in the yards. That said, the yards were still not equipped with any shelter against inclement weather. To sum up, remand prisoners routinely spent 23 hours per day inside their cells, with nothing else to occupy themselves other than watching television, listening to the radio or reading.

The situation of the ten juveniles<sup>32</sup> on remand at Belgrade District Prison was much the same. Admittedly, five of them followed a one hour literacy course three times a week. Apart from that, their only regular out-of-cell activity was daily outdoor exercise. No other provision was made for educational/vocational training for the juvenile prisoners.

54. Similarly, no work, education or vocational training was offered to remand prisoners at the *remand section of Požarevac-Zabela Correctional Institution*. They were in principle allowed up to one hour of outdoor exercise on a daily basis, but the female prisoners complained that outdoor exercise rarely lasted more than 15 minutes every day.

55. At *Pavilion VII of Požarevac-Zabela Correctional Institution*, the only regular out-of-cell activity for the vast majority of inmates was outdoor exercise for an hour on a daily basis in small groups, including with inmates from other cells. Nine inmates out of 235 were assigned to perform cleaning tasks or distribution of food within the pavilion.

56. The best situation as regards activities was observed at *Požarevac Correctional Institution for Women*, where some 60 % of the inmates had work<sup>33</sup>, including those from the closed sections.

Education (basic literacy) was also offered but the management indicated it was difficult to motivate inmates to take part<sup>34</sup>. Inmates could have access to a variety of arts and craft classes. In addition, there was a sports programme with some organised games, and all inmates in the closed section were offered two periods of outdoor exercise every day, taken in large yards located within the compound of the prison. That said, some inmates complained that they had been offered hardly any outdoor exercise during the admission period<sup>35</sup>.

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<sup>31</sup> See the recommendation in paragraph 44 concerning electrical sockets in cells.

<sup>32</sup> Aged 15 to 18.

<sup>33</sup> In the garment workshop, the craft workshop, on the establishment's farm and the garden; further, some maintenance work outside the establishment was available to the inmates in the open section. However, at the time of the visit the workshops were closed due to inclement weather.

<sup>34</sup> Only two inmates were using this opportunity at the time of the visit.

<sup>35</sup> In Serbia, the admission period in a prison can last for up to 30 days.

All sections of the prison had one to two common rooms, one in each section being equipped with a TV, and inmates could make tea and coffee there. It should be recalled that inmates in the closed sections could benefit from an open door regime within their respective sections during the day. Inmates from the semi-open sections benefited from an open-door regime allowing them to mix regardless of their sections. In addition, all inmates had access to a fitness room, a recreational room (library, painting/drawing).

However, it appeared that very little consideration was given to the preparation of inmates for release.

57. The inadequate provision of activities for prisoners has been the subject of recommendations in previous CPT visit reports. Although the Serbian authorities have made certain efforts, especially as regards the provision of outdoor exercise, there remains much scope for improvement.

The Committee has already made, in this report, a general recommendation with a view to putting in place programmes of activities for both remand and sentenced prisoners (see paragraph 36). More specifically, **the CPT recommends that the Serbian authorities take urgent measures at Belgrade District Prison, and where necessary at other penitentiary establishments, to ensure that all juvenile prisoners are offered educational, vocational and recreational activities taking into account the specific needs of their age group. Physical education should be part of that programme.**

Further, **the CPT calls upon the Serbian authorities to ensure that all prisoners in the penitentiary establishments visited, as well as in other prisons in Serbia, are offered at least one hour of outdoor exercise per day; the Committee encourages the Serbian authorities to implement in practice the legal standard of two hours of daily outdoor exercise. As for the exercise yards at Belgrade District Prison, they should be equipped with a shelter against inclement weather.**

Finally, the CPT is of the opinion that, in the interests not only of the inmates concerned but also of the wider community, prisoners should be provided with appropriate support and offered pre-release courses as they approach the end of their sentences. **The CPT recommends that the Serbian authorities make efforts to offer pre-release courses to prisoners as they approach the end of their sentence, both at Požarevac Correctional Institution for Women and in all other prisons, taking into consideration Rule 103.4 of the revised European Prison Rules.**

58. At Belgrade District Prison, the delegation received a few complaints from prisoners who had reportedly asked to see a religious representative without any success; further, there was no facility for communal liturgies at the establishment. Both the right to meet a religious representative and the possibility to organise collective liturgies are foreseen in the Serbian legislation (Section 113 of the LECS and Section 50 of the Rulebook on House Rules in Correctional Institutions and District Prisons)<sup>36</sup>. In this context, **the CPT would welcome the comments of the Serbian authorities on the above issues.**

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<sup>36</sup> See also Rule 29.2 of the Revised European Prison Rules, concerning the right for prisoners to attend religious services.

c. classification of prisoners

59. In 2010 a "Rulebook on the treatment, the individual treatment programmes, classification and re-classification of prisoners" was adopted. The prisoner classification system described in the report on the 2007 visit<sup>37</sup> was further developed in the 2010 Rulebook, putting in place individual sentence plans based on a personality assessment (which appeared to cover all the factors for a proper risk assessment). In addition, a new procedure for the review of the classification of inmates had been introduced, and decisions on re-classification are now to be taken by the prison director upon a substantiated recommendation of the classification team.

That said, and as was the case in 2004 and 2007, the vast majority of the inmates met by the delegation, in all the establishments visited, complained about the lack of information and transparency as regards the classification system, both on arrival and during the sentence. **The CPT would like to receive the comments of the Serbian authorities on this subject.**

60. In the CPT's view, the classification of prisoners, in accordance with the principles laid down in the revised European Prison Rules<sup>38</sup>, either at the time of their admission to the prison or during their subsequent incarceration is the first, absolutely essential, step for implementing individualised sentence plans. Further, the introduction of such a scheme is usually welcomed by prisoners, since it enables them to progress, during their time in prison, towards regimes combining greater autonomy and more personal responsibility. Individualised plans of this kind tend, by their very nature, to reinforce the security within prison establishments. While welcoming the development of the system of classification and individualised sentence plans of prisoners in Serbia, **the CPT invites the Serbian authorities to strive to implement them in practice, taking into consideration the above remarks.**

#### 4. Special Department of Požarevac-Zabela Correctional Institution

61. The closed section of Požarevac-Zabela Correctional Institution comprised a brand new maximum security building ("the Special Department")<sup>39</sup>, put into service in early 2010 after the entry into force of the Law on the Execution of Prison Sentences for Criminal Offences of Organised Crime. With a capacity of 60 (four wings with 15 cells each), the Special Department accommodated 13 inmates at the time of the visit, all sentenced to long terms of imprisonment<sup>40</sup> for terrorist or organised criminal offences.

There were 46 custodial staff working at the Special Department of Požarevac-Zabela Correctional Institution, with perimeter security ensured by the gendarmerie (whose staff were not included in the above number); the delegation was informed that this was the best staffed unit in the whole Serbian prison system.

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<sup>37</sup> See paragraph 65 of CPT/Inf (2009) 1.

<sup>38</sup> See rules 103 and 104 of the European Prison Rules, Recommendation Rec(2006)2 of the Committee of Ministers of the Council of Europe, 11 January 2006.

<sup>39</sup> Visited by the CPT in 2007 while it was not yet in operation, see paragraph 54 of CPT/Inf (2009) 1.

<sup>40</sup> The majority of them serving sentences from 20 to 40 years.



The custodial staff were carefully selected volunteers from all the prisons, with tests of their physical strength, psychological health, attendance rates and general discipline. Each of the selected staff served a six month period in the establishment before returning to their previous location.

62. The Special Department was fully self-contained, with its own exercise yards, medical facilities and visits area. There were also two rooms equipped for haircutting, telephone calls and video conferencing. The material conditions were of a good standard.

63. However, the regime in the Special Department could be described as bordering on the inhuman and degrading. The only time when prisoners saw their fellow inmates was during the daily two-hour outdoor exercise (taken in oppressive and bare yards), where – pursuant to Section 32 of the Law on the Execution of Prison Sentences for Criminal Offences of Organised Crime – up to five prisoners could associate. The rest of their day, the inmates remained locked in their cells under constant CCTV monitoring; that said, their privacy was protected while they were using a toilet.

The custodial staff were allowed to talk to prisoners only to greet them or to give instructions, using the prisoner's surname at all times; other conversations were prohibited. That said, prisoners could request a meeting with a social worker, a psychologist, a teacher or a chaplain.

In the CPT's view, to subject prisoners for extended periods to such an impoverished regime is far more likely to de-socialise than re-socialise them. The existence of a satisfactory programme of activities is just as important - if not more so - in a high security unit than on normal location. It can help countering the deleterious effects upon a prisoner's personality of living in the bubble-like atmosphere of such a unit. The activities provided should be as diverse as possible (education, sport, work of vocational value, etc.). As regards, in particular, work activities, it is clear that security considerations may preclude many types of work which are found on normal prison location. Regardless of the gravity of the offences of which prisoners are accused or have been convicted and/or their presumed dangerousness, efforts must be made to provide them with appropriate stimulation and, in particular, with adequate human contact. **The CPT recommends that the regime applied to inmates placed in the Special Department of Požarevac-Zabela Correctional Institution be fundamentally changed; individual plans should be developed – and appropriate activities put in place – aimed at providing appropriate mental and physical stimulation to prisoners. Further, the exercise yards of the Special Department should be equipped with a means of rest and some protection against inclement weather.**

64. All movements out of the cells took place with the inmates at least handcuffed and with a minimum of four staff in attendance. A body belt was systematically applied when a prisoner was to undertake a video conference or make a statement at a court hearing on the premises. **The CPT is of the opinion that routinely handcuffing and body belting inmates within a secure area is not acceptable. Security measures applied to inmates should be based on an individual risk assessment and reviewed at regular intervals.**

65. Allocation to the Special Department of Požarevac-Zabela Correctional Institution was carried out on the basis of reports from the Security Service, the Police, Prosecutors and the President of the High Court. Decisions were reviewed by the court every two years on the basis of updated reports from each of these services and a report from the prison. Given that the main reason for the placement of prisoners in the Special Department was their offence and not their behaviour inside the prison system, it was unlikely that a decision would be taken to allow a prisoner to move to a lower-security prison unit, and the reviews risked to be little more than a formality.

In the CPT's view, it is axiomatic that prisoners should not be subject to a special security regime any longer than the risk they present makes necessary. This calls for regular reviews of placement decisions. Such reviews should always be based on the continuous assessment of the individual prisoner by staff specially trained to carry out such assessment. Moreover, prisoners should as far as possible be kept fully informed of the reasons for their placement and, if necessary, its renewal; this will inter alia enable them to make effective use of avenues for challenging that measure.

**The CPT recommends that the Serbian authorities review the placement policy applied to inmates in the Special Department of Požarevac-Zabela Correctional Institution, in the light of the above remarks. In particular, the review of the placement in the Special Department should take place on a more frequent (preferably quarterly) basis.**

## 5. Health-care services in the prisons visited

66. The health-care staff resources at Belgrade District Prison and Požarevac-Zabela Correctional Institution continued to leave much to be desired.

The number of general practitioners at *Belgrade District Prison* had decreased from six to a mere two full-time doctors (there was a third doctor, but on sick leave and unlikely to come back and the prison management was looking for a replacement), and there were still only seven nurses, including one dental technician<sup>41</sup>. A cardiologist visited the prison twice a week, and a surgeon and a neurologist came once a week. Further, prisoners had access to a number of medical specialists from the Special Prison Hospital located on the last two floors of the same building (see paragraphs 80 to 92).

At *Požarevac-Zabela Correctional Institution*, the number of general practitioners had decreased to two full-time doctors – down from three – whereas there were now six nurses (up from four); however, there was still no 24-hour nursing coverage. The infirmary<sup>42</sup> was visited twice a week by a surgeon, once a week by a neurologist and an internal medicine specialist, and twice a week by a laboratory technician. The delegation was informed that, if needed, inmates could be transferred to the Požarevac civilian hospital for specialist consultations<sup>43</sup>.

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<sup>41</sup> There was always one doctor and one nurse at the prison from 7.30 am to 10.00 pm from Monday to Friday, and from 8.00 am to 3 pm on Saturdays; on Sundays the Special Prison Hospital's doctor was on call also for Belgrade District Prison.

<sup>42</sup> With a capacity of 90 beds. It had undergone some refurbishment since 2007: new beds and mattresses, and a new roof.

<sup>43</sup> See, however, paragraph 72.

The medical equipment at the main health-care unit of *Požarevac-Zabela Correctional Institution* was very basic and old, and there was no life saving equipment. In contrast, the delegation was impressed by the modern medical equipment at the establishment's *Special Department*, which included mouthpieces, a laryngoscope, an ECG, a defibrillator, a respirator with an oxygen bottle, an autoclave type sterilizer, a dental chair, a dental x-ray, an otoscope, a blood pressure machine (BP), and a USG machine. However, this modern equipment was not available to inmates from the rest of the prison, even in emergencies. As for *Belgrade District Prison*, the equipment of the health-care unit was rudimentary but in working order.

As to dental care arrangements, *Belgrade District Prison* employed one full-time dentist and one full-time dental technician, and a full-time dentist was employed at *Požarevac-Zabela Correctional Institution*. The dental office of the latter establishment was dilapidated, with unsterilized instruments covered with dust and dirt.

67. The situation in terms of health-care service staffing and equipment was better at *Požarevac Correctional Institution for Women*, where the health-care team consisted of one full-time general practitioner (present from 7 am to 3 pm from Monday to Friday), one part-time surgeon, and one part-time occupational doctor (the last two worked alternately from 4 to 7 pm). A dentist came on Tuesdays, a psychiatrist on Mondays afternoon and a gynaecologist twice a month. There were two full-time nurses and one part-time nurse (ensuring a presence from 7 am to 8 pm from Monday to Friday and from 8 am to 8 pm on weekends). The delegation was informed that the management intended to recruit two additional nurses<sup>44</sup>. To sum up, the health care service resources were adequate for an establishment accommodating some 200 inmates, especially once the additional nurses are recruited.

The delegation was informed that, in case of need of specialist consultation or in emergencies, inmates could be transferred to the nearby Požarevac civilian hospital<sup>45</sup>.

The two-storey in-patient facility of Požarevac Correctional Institution for Women had eight beds on the ground floor and a gynaecological clinic on the first floor (10 beds and 5 cots for babies). Basic medical equipment was available but there was neither a mouthpiece nor a defibrillator. The whole health-care unit was very clean and well maintained.

68. The CPT is particularly concerned by the modest health-care staff resources at Belgrade District Prison and Požarevac-Zabela Correctional Institution, which were clearly insufficient to provide a satisfactory level of care to some 1,600 and 1,400 inmates respectively. **The Committee calls upon the Serbian authorities to substantially increase the number of qualified nurses at these two establishments as a matter of priority.**

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<sup>44</sup> Two prisoners also worked as orderlies in the in-patient facility, occupied with cleaning and helping disabled patients or mothers with children. See paragraph 69.

<sup>45</sup> See, however, paragraph 72.

In addition, steps should be taken to:

- recruit more general practitioners at both Belgrade District Prison and Požarevac-Zabela Correctional Institution;
- increase the presence of a dentist at both of the above-mentioned establishments and ensure that the dental surgery at Požarevac-Zabela Correctional Institution meets the recognised health care standards;
- refurbish the main health care unit at Požarevac-Zabela Correctional Institution and, in the meantime, ensure that the modern medical equipment at the Special Department of the establishment is made available in emergency cases to the rest of the inmates of the Institution;
- provide the in-patient facility at the Požarevac Correctional Institution for Women with basic life saving equipment.

69. The delegation was concerned to note that the distribution of medicines to prisoners at Belgrade District Prison and Požarevac-Zabela Correctional Institution was not carried out exclusively by health-care staff; prison officers and/or prisoners employed as orderlies were involved to a variable extent in the process. The CPT must stress that the employment of inmates as orderlies should be seen as a last resort. Further, neither prisoners nor custodial staff should be involved in the distribution of medicines. **The CPT reiterates its recommendation that the distribution of medicines at Belgrade District Prison and Požarevac-Zabela Correctional Institution be performed exclusively by qualified health-care staff.**

Further, the delegation noted that the stocks of medication in the pharmacies of the establishments visited were rather modest<sup>46</sup>, and prisoners interviewed by the delegation stated that they had to rely on medication supplied by their families. **The Committee recommends that steps be taken to ensure the supply of appropriate medication in sufficient quantities to all establishments under the authority of the Ministry of Justice.**

70. The provision of psychiatric and psychological care to prisoners left much to be desired at Belgrade District Prison (with one psychiatrist visiting the establishment twice a week) and Požarevac-Zabela Correctional Institution (with one psychiatrist visiting once a week). Further, there was no psychologist available at any of the establishments visited. **The CPT reiterates its recommendation that the Serbian authorities reinforce the provision of psychiatric care and psychological support to prisoners, with particular attention being paid to the needs of prisoners serving long sentences.**

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<sup>46</sup> With the notable exception of the pharmacy at the Požarevac Correctional Institution for Women, which was well-stocked with an appropriate range of medication.

71. The delegation was concerned to note that, in the establishments visited, the treatment for prisoners with a drug addiction problem consisted only of providing methadone, and that exclusively to persons who were registered as drug addicts upon their entry into the prison system. At Belgrade District Prison, five inmates were undergoing methadone therapy at the time of the visit; there were ten such prisoners at Požarevac-Zabela Correctional Institution and four at Požarevac Correctional Institution for Women. As far as the delegation could ascertain, little was done as regards the provision of psycho-socio-educational assistance to prisoners with a drug addiction problem.

As noted in the report on the 2007 visit, the CPT considers that the provision of assistance to prisoners with drug-related problems should combine a prevention policy with programmes for medical detoxification, psychological support, rehabilitation and substitution. **The Committee recommends again that the Serbian authorities develop a comprehensive strategy for the provision of assistance to prisoners with drug-related problems, in the light of these remarks.**

72. In the three establishments visited, the delegation noted delays (of up to one month and a half) in transferring inmates for treatment to outside hospital facilities and in arranging visits by outside medical specialists. In this connection, the only ambulance available at Požarevac-Zabela Correctional Institution was an outdated vehicle, with no other equipment than a stretcher. The health-care staff at Požarevac Correctional Institution for Women also complained about problems with transferring patients; this establishment possessed no ambulance and had to rely on the above-mentioned vehicle from Požarevac-Zabela Correctional Institution (located some 6 kilometres away). **The CPT recommends that steps be taken to address this issue.**

73. Newly-arrived prisoners were in principle seen by a doctor within 48 hours following arrival. One notable exception was the remand section of Požarevac-Zabela Correctional Institution<sup>47</sup>, where the prison doctor of the main compound would only visit on Mondays; this resulted in delays in performing the medical examination upon admission of up to one week (for inmates admitted on Tuesdays). In addition, the medical examination remained superficial, consisting merely of an interview, and there were no paraclinical examinations.

In the CPT's view, every newly-arrived prisoner should be properly interviewed and physically examined by a medical doctor as soon as possible after his admission; save in exceptional circumstances, the interview/examination should be carried out on the day of admission, especially insofar as remand establishments are concerned. **The CPT reiterates its recommendation that steps be taken to ensure strict adherence to the rule that all prisoners must be seen by a health-care staff member within 24 hours of their arrival, as specified in the LECS. The medical examination on admission should be comprehensive, including appropriate screening for transmissible diseases<sup>48</sup>. The same approach should be followed whenever a prisoner is medically examined following a violent episode in prison.**

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<sup>47</sup> This section, located in the centre of the town of Požarevac, was totally separated from the main compound situated several kilometres away.

<sup>48</sup> See also paragraph 18.

74. As regards medical confidentiality, medical examinations continued to be systematically performed in the presence of custodial staff. The CPT has serious misgivings about this approach. The Committee acknowledges that special security measures may be required during medical examinations in a particular case, when a security threat is perceived by the medical staff. However, there can be no justification for custodial staff being systematically present during such examinations; their presence is detrimental to the establishment of a proper doctor-patient relationship and usually unnecessary from a security point of view. Alternative solutions can and should be found to reconcile legitimate security requirements with the principle of medical confidentiality. One possibility might be the installation of a call system, whereby a doctor would be in a position rapidly to alert custodial officers in those exceptional cases when a detainee becomes agitated or threatening during a medical examination. **The CPT recommends that the Serbian authorities take steps to ensure the confidentiality of prisoners' medical examinations, in line with the above considerations. If necessary, the law should be amended accordingly.**

75. Medical documentation was detailed and well kept at Požarevac Correctional Institution for Women. As regards the other establishments visited, information in medical individual files remained meagre and lacking in detail. **The CPT recommends that steps be taken to improve the medical record-keeping at Belgrade District Prison and Požarevac-Zabela Correctional Institution, in the light of the above remarks.**

76. As had been the case during the CPT's 2007 visit, the health-care services of the establishments visited usually had no record of prisoners who had died in an outside hospital after having being transferred from the prison, and did not receive copies of the autopsy reports of deceased prisoners or information on the cause of their death. The delegation was not in a position to ascertain whether autopsies were systematically performed in such cases.

**The CPT reiterates its recommendation that prison management and prison doctors be systematically provided with the conclusions of autopsy reports (or at least information on the cause of death) concerning prisoners who die in prison or in an outside hospital after having being transferred from their establishments. Further, the Committee would like to be informed whether autopsies are systematically performed when an inmate dies in prison or after having been transferred to an outside hospital.**

77. Although prison health-care services in Serbia are placed under the authority of the Ministry of Justice, the Ministry of Health is responsible for supervising the standards of care. However, in the three establishments visited, no-one from the management or the medical staff could remember any inspections carried out by the Ministry of Health.

The CPT is of the opinion that urgent steps should be taken to put in place a proper quality control system of prison healthcare at the national level. **The Committee recommends that the Serbian authorities ensure that the Ministry of Health becomes more actively involved in this area (including as regards the recruitment of health-care staff, their in-service training, evaluation of malpractice, certification and inspection), with a view to ensuring respect of the principle of equivalence of care and taking into account the specific health needs of the prison population.**

## 6. Follow-up visit to the Special Prison Hospital in Belgrade

78. The CPT's delegation visited – for the third time<sup>49</sup> – the Special Prison Hospital in Belgrade. Compared with the situation observed in 2007, the establishment's official capacity had been raised by 50 beds (from 400 to 450) while the population had dramatically increased – from 530 to 718 patients. The delegation was told that this increase was mainly due to the fact that courts in Serbia had recently begun applying the measure of compulsory drug and alcohol addiction treatment more frequently. At the time of the visit, there were some 250 patients undergoing compulsory drug treatment and an additional 50 patients under the compulsory alcoholism treatment. The number of patients undergoing compulsory psychiatric treatment had remained roughly the same as at the time of the 2007 visit (around 270).

From the outset, it must be stressed that the combination of severe overcrowding, dilapidated facilities, lack of staff and limited therapeutic options led to conditions at the Special Prison Hospital in Belgrade that could be considered inhuman and degrading.

79. The delegation received hardly any allegation of physical ill-treatment of patients by staff at the Special Prison Hospital, and the atmosphere on the wards appeared generally relaxed. That said, as acknowledged by the management and staff, inter-patient violence remained a problem, especially on the compulsory drug and alcohol treatment wards. **The CPT reiterates its recommendation that further efforts be made to combat the phenomenon of inter-patient violence at the Special Prison Hospital in Belgrade; this will require bringing the hospital's population down to its official capacity and, as needed, increasing the nursing staff levels and presence** (see paragraph 87).

80. As on the previous visits, custodial staff were allowed to enter the patients' living areas on their own authority, and continued to carry truncheons in a visible manner while being present in these areas. **The CPT reiterates its recommendation that custodial staff be instructed not to enter the patients' living areas unless requested by the health-care staff, and not to carry truncheons in a visible manner while present inside the above-mentioned areas.**

Further, the delegation was concerned by the fact that custodial staff working at the Special Prison Hospital were still not offered any special training (i.e. different from that provided to staff working in prisons) before taking up their duties, and that the hospital's management was not able to select the custodial staff (the recruitment taking place at the level of the central prison administration). The delegation was informed that a special Rule Book for the staff working in the hospital, reflecting the medical function of the establishment, had been drafted some time ago but was still awaiting adoption. **The CPT would like to be informed whether the above-mentioned Rule Book has now been adopted and to be provided with its text.** Further, **the Committee reiterates its recommendation to review the procedures for the selection of custodial staff and their initial and ongoing training, taking into account the principles set out in paragraph 82 of the report on the 2007 visit<sup>50</sup>.**

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<sup>49</sup> The first visit took place in 2004 (see paragraphs 146 to 168 of CPT/Inf (2006) 18) and the second in 2007 (see paragraphs 80 to 98 of CPT/Inf (2009) 1).

<sup>50</sup> "Bearing in mind the challenging nature of their work, it is of crucial importance that custodial staff in a prison hospital (especially one in which psychiatric patients represent a significant proportion of the population) be carefully selected and that they receive appropriate training before taking up their duties, as well as in-service courses. Further, during the performance of their tasks, they should be closely supervised by - and subject to the authority of - qualified health-care staff."

81. Similar to the situation observed during the previous visits, the delegation noted that means of restraint (fixation) were applied frequently at the Special Prison Hospital<sup>51</sup>, for periods of up to four days and occasionally up to nine days. In the CPT's view, **such prolonged periods of fixation can have no medical justification.**

Further, as on the previous visits, patients were routinely restrained in full view of other patients, and the delegation was concerned to note that restraints continued to be applied by the custodial staff – a task that should normally be performed only by duly trained health-care staff. Moreover, the nurses (and custodial staff) had still not received any specific training on the use of the means of restraint, and there was no written policy on the use of restraints in the hospital. **The CPT calls upon the Serbian authorities to remedy the above-mentioned deficiencies. In particular, clearly defined written instructions on the use of means of restraint at the Special Prison Hospital in Belgrade should be issued without further delay**<sup>52</sup>.

On the positive side, the practice of keeping special registers for recording instances of use of restraints had been extended to all the wards and the delegation noted that, as a rule, these registers were well kept; the Committee welcomes this.

82. As regards patients' living conditions, the delegation noted that the refurbishment programme which was ongoing during the 2007 visit had been completed and that all the patient rooms on the 4th floor had large windows, adequate ventilation and heating, and were suitably equipped. That said, signs of wear-and-tear were already visible in the parts of the Wards A and B that had been refurbished earlier (especially in the toilets). Further, the rooms were overcrowded, austere and impersonal.

In the rest of the hospital, the situation had become even worse than in 2007, with the patient accommodation areas in a state of advanced dilapidation (damaged walls and ceilings, leaking pipes, etc). This, combined with severe overcrowding (e.g. six patients sharing a room measuring some 15 m<sup>2</sup>; 11 patients in a room of some 20 m<sup>2</sup>), poor level of cleanliness (as before, cleaning the rooms was left up to the patients themselves) and the faulty design of the unrefurbished areas (lack of direct access to natural light and inefficient heating) rendered the conditions extremely poor. The conditions were particularly deplorable in the admission and forensic assessment wards on the ground floor. Such conditions are certainly not conducive to a proper psychiatric assessment.

**The CPT calls upon the Serbian authorities to attach the highest priority to the continuation of the refurbishment of the Special Prison Hospital in Belgrade, and to finding ways to significantly reduce the level of overcrowding at the establishment. Further, the Committee reiterates the recommendation to take urgent steps to address the problem of hygiene in patients' accommodation areas.**

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<sup>51</sup> For example, on the acute psychiatric Ward E there had been 102 instances of use of mechanical restraint in the course of 2010, and 17 cases in January 2011.

<sup>52</sup> These instructions should *inter alia* make clear that means of mechanical restraint are to be removed at the earliest opportunity. Doctors should always fix precise time-limits for the restraint measure; any continuation should require another authorisation by a doctor. Nurses (as well as custodial staff, for as long as recourse has to be had to their assistance) should receive specific training in both non-physical and manual control techniques vis-à-vis agitated or violent patients. See also paragraph 130.



83. The delegation was also concerned to observe that patients in some of the wards (in particular the acute psychiatric ward) were wearing pyjamas the whole day. This practice is not conducive to strengthening a sense of personal identity and self-esteem of the patients; **the CPT recommends that it be abolished.**

84. While the delegation noted the hospital management's efforts to offer daily outdoor exercise to all the patients, such exercise was still often possible only for brief periods (e.g. 20 to 30 minutes per day). Further, the exercise took place in the same yard as in 2007, lacking any means of rest and a shelter against inclement weather. **The CPT reiterates its recommendation that steps be taken without further delay to ensure that all patients whose medical condition so allows are offered the possibility to take outdoor exercise for two hours every day, in accordance with the relevant legislation.** Further, **the outdoor exercise yard should be equipped with a means of rest and a shelter against inclement weather.**

85. The situation as regards the treatment offered to psychiatric patients was very much the same as described in the report on the 2007 visit, i.e. it continued to be mainly based on pharmacotherapy (which appeared adequate). The offer of psycho-social rehabilitative activities remained underdeveloped. Some 30 patients had daily access (in the mornings only) to a workshop where they could engage in work therapy, and there were limited possibilities to participate in art therapy, individual and group psychotherapy (for some 30 patients in total) and sports.

Further, as was the case in 2007, a few patients helped staff with maintenance tasks, for which they received a symbolic salary. That said, most of the patients spent their days in their rooms or on corridors, without any organised activities and with few distractions available. The delegation was also concerned to note that there were still no individual treatment plans for psychiatric patients.

**The CPT reiterates its long-standing recommendation that efforts be made to develop the range of rehabilitative psycho-social activities for psychiatric patients at the Special Prison Hospital in Belgrade; occupational therapy should be an integral part of the rehabilitation programme.** Further, **the Committee reiterates its recommendation that an individual treatment plan be drawn up for each psychiatric patient, including the goals of the treatment, the therapeutic means to be used and the staff members responsible. Patients should be involved in the drafting of their individual treatment plans and the evaluation of their progress.**

86. As regards patients undergoing compulsory drug treatment and patients suffering from tuberculosis, **the comments and recommendations in paragraphs 89 and 91 of the report on the 2007 visit remain fully applicable**<sup>53</sup>.

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<sup>53</sup> See Appendix III.

87. The scarcity of the available treatment options was obviously related to the difficult staffing situation at the Special Prison Hospital. Despite the huge increase in population, the number of doctors had actually decreased by nine since the 2007 visit<sup>54</sup>. The delegation was informed that following the entry into force of the new Civil Service Act, doctors working in the prison system had a different legal status from their colleagues employed by the Ministry of Health, which *inter alia* resulted in lower salaries and shorter holidays. Naturally, retaining medical professionals and recruiting new ones had become even harder in these circumstances.

As for the nurses, their number had remained the same as in 2007 (i.e. some 80) and there were no vacant posts. However, the nursing staff presence on the wards was clearly insufficient, especially after 2 pm on week days and at weekends (with one nurse per ward of up to 150 patients). It should be added that, as had been the case during the previous visits, no formal specialised training in psychiatric nursing was offered to the nurses.

In the report on its 2007 visit, the CPT concluded that the health-care staff complement and times of presence were not sufficient to meet the needs of the Special Prison Hospital in Belgrade. Unfortunately, the situation observed in 2011 was even worse in this respect. Also the number of staff qualified to offer psycho-social rehabilitative activities<sup>55</sup> was clearly too low.

**The CPT calls upon the Serbian authorities to increase their efforts to improve staffing levels and the time of presence of health-care staff at the Special Prison Hospital in Belgrade. The Committee also reiterates its recommendation that nurses working with psychiatric patients be provided with training reflecting the specialised nature of their work.**

88. As regards the legal safeguards for patients undergoing compulsory psychiatric treatment at the Special Prison Hospital, the situation was very much the same as that observed during the 2007 visit; recommendations made in the report on that visit<sup>56</sup> had not been implemented. **The CPT calls upon the Serbian authorities to take decisive steps to implement the said recommendations without further delay.**

On the local level, **the Committee reiterates its recommendation that the management of the Special Prison Hospital in Belgrade ensure that patients are provided with written information on their rights, and that they are effectively able to send confidential complaints to outside bodies.**

89. The CPT is particularly concerned by the fact that, due to the absence of appropriate structures in the outside community, a large percentage of patients from the psychiatric wards (some 20% according to the management of the Special Prison Hospital) continued to stay in the hospital, sometimes for years on end, despite the lack of medical grounds for continuing hospitalisation.

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<sup>54</sup> At the time of the 2011 visit, the hospital employed 26 doctors including 17 psychiatrists, 2 internal medicine specialists, 2 neurologists, 2 GPs, a lung specialist, an ophthalmologist and a dentist. In addition, there were several visiting specialists from outside hospitals (including surgeons, an orthopaedist, an ORL specialist, an infectious diseases specialist and a radiologist).

<sup>55</sup> Two psychologists, one special educator, 4 social workers, 18 pedagogues working with drug addicts and 7 occupational therapists.

<sup>56</sup> See paragraphs 94 and 95 of CPT/Inf (2009) 1, reproduced in Appendix III.

It also remained the case that the Hospital's recommendations for release of forensic psychiatric patients were often rejected by courts on non-medical grounds, e.g. the refusal of the family to take the patient back or the lack of a place to live and work. This totally unacceptable situation, which also concerned many patients accommodated in psychiatric hospitals run by the Ministry of Health (see paragraph 106), should not be allowed to continue any longer. **The Committee calls upon the Serbian authorities to take energetic and effective measures to resolve this, *inter alia* by setting up appropriate structures in the outside community.**

90. The solitary confinement cells on the ground floor of the Hospital (described in paragraph 93 of the report on the 2007 visit) had not been refurbished and continued to be used albeit not by the Hospital in the recent months<sup>57</sup>. **The CPT reiterates its recommendation that these cells be taken out of service, pending refurbishment.**

## 7. Other issues of relevance for the CPT's mandate

### a. prison staff

91. The custodial staff levels in the establishments visited were low<sup>58</sup>, which resulted in considerable pressure on staff to work overtime. At Belgrade District Prison, there were 299 custodial staff<sup>59</sup>, for an inmate population of almost 1,700. The director of the establishment informed the delegation that a recently adopted new job classification had resulted in the possibility for him to ask for some 50 more custodial staff. The situation was not much better at either the Požarevac-Zabela Correctional Institution or the Požarevac Correctional Institution for Women, where there were 285 and 42 custodial staff respectively.

In all the prisons visited, staff had followed various initial and on-going training courses, organised partly at the Prison Staff Training Centre in Niš and partly in their respective prisons. At Belgrade District Prison, training described by staff related essentially to weapons, equipment and labour relations, with some elements of psychology. In a positive contrast, at Požarevac Correctional Institution for Women, staff had followed courses on suicide awareness, coping with stress, working with victims of domestic violence, LGBT rights, first aid and control and physical restraint techniques. The head of security had attended a three day seminar on the CPT at the Prison Staff Training Centre.

92. The Committee is of the opinion that ensuring positive staff-inmate relations will depend greatly on having an adequate number of staff present at any given time in detention areas. An overall low staff complement and/or specific staff attendance systems which diminish the possibility of direct contact with prisoners, impede the development of positive relations and generate an insecure environment for both staff and prisoners. In addition, a low staff complement has a negative influence on the quality and level of the activities programme developed.

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<sup>57</sup> They were being used to accommodate inmates from Belgrade District Prison, due to the extreme overcrowding in that establishment.

<sup>58</sup> With the exception of the Special Department of Požarevac-Zabela Correctional Institution (see paragraph 61).

<sup>59</sup> Some 120 staff were present during the day, and approximately 35 at night.

To obtain custodial personnel of the right calibre, the authorities must also be prepared to invest adequate resources in the process of recruitment and training. **The CPT recommends that the Serbian authorities take steps to increase staffing levels and further improve the training for custodial staff, in the light of the preceding remarks.**

b. contact with the outside world

93. The legal provisions on *visits* for remand prisoners, criticised by the CPT in its previous visit reports, have remained unchanged, with the exception of the new possibility for inmates to lodge a complaint against the prohibition of visits by the investigative judge<sup>60</sup>. That said, none of the inmates with whom the delegation spoke was aware of this possibility. In addition, it became apparent that even visits by lawyers had to be authorised by the investigative judge.

On the other hand, the delegation noted that obtaining the authorisation to receive visits did not seem to pose problems in practice and remand prisoners were generally granted two visits of 30 minutes per month, in closed or open settings<sup>61</sup>; this is an improvement as compared with the situation observed in 2007. It also appeared that, as regards lawyers, courts usually granted them long-term authorisations of visits.

Nevertheless, **the CPT calls upon the Serbian authorities to amend the law and the relevant regulations so as to ensure that granting visits to remand prisoners is the norm, the refusal of visits the exception. Further, visits by prisoners' lawyers should not be subject to an authorisation requirement, nor to limitations as regards their duration and frequency.**

The delegation heard several complaints about the length of visits, which lasted from 10 to 30 minutes in the establishments visited. In the CPT's view, the current arrangements are not sufficient to enable remand prisoners to maintain appropriate contact with the outside world. **The objective should be to offer a visit every week, of a duration of at least one hour.**

94. The delegation was concerned to note that remand prisoners were not allowed to use *telephones*, reportedly because the 1999 House Rules for Remand Detention did not specifically grant them such access. They were also prevented from calling their lawyers. In the CPT's view, all prisoners, including those on remand, should – as a rule – have access to the telephone. **Any prohibition of phone calls in respect of a given remand prisoner should be specifically substantiated by the needs of the investigation, require the approval of a body unconnected with the case at hand, and be applied for a specified period of time, with reasons stated. Further, the decision concerning prohibition should be made available to the prisoner concerned and his lawyer. Telephone calls to a remand prisoner's lawyer should never be prohibited. The relevant legislation and regulations should be amended accordingly.**

95. The *visiting entitlement* for sentenced prisoners has remained unchanged since the 2007 visit<sup>62</sup>. The delegation received many complaints from inmates serving their sentences under the closed regime, who were entitled to only one visit a month.

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<sup>60</sup> However, such a complaint has no suspensive effect.

<sup>61</sup> Closed setting meant meeting in a room with a full glass partition (open setting – without the partition).

<sup>62</sup> See paragraph 102 of CPT/Inf (2009) 1. Sentenced inmates are entitled to a visit of at least one hour once a week in an open-regime section, twice a month in a semi-open-regime section, and once a month in a closed-

The CPT has stressed in the past that it is very important for prisoners to be able to maintain good contact with the outside world. Above all, they must be given the opportunity to maintain their relationships with their family and friends, and especially with their spouse or partner and their children. The continuation of such relations can be of critical importance for all concerned, particularly in the context of prisoners' social rehabilitation. The present entitlement of one visit per month for prisoners subject to a closed regime is not sufficient to safeguard those relations. **The CPT reiterates its recommendation that all sentenced inmates, regardless of the regime to which they are subject, be entitled to a visit of at least one hour every week. Further, prisoners whose families live far away from the prison should be allowed to accumulate any unused visiting periods. The relevant legislation and regulations should be amended accordingly.**

96. Prisoners accommodated in the Special Department of Požarevac-Zabela Correctional Institution were entitled to a maximum of two visits per month, without any possibility of physical contact with the visitors and under CCTV monitoring and recording<sup>63</sup>. In addition to the recommendations made in paragraph 95 above – which apply also to this category of prisoner – **the CPT recommends that the Serbian authorities review the visiting arrangements for inmates placed in the Special Department of Požarevac-Zabela Correctional Institution; in particular, the possibility of having open visits should be introduced, subject to an individual risk assessment.**

97. The legal provisions as regards access to a *telephone* for sentenced prisoners have recently been amended so as to grant such a right twice a week in a closed-regime section, and on a daily basis for prisoners in semi-open and open-regime sections; this is a positive development. The delegation was pleased to note that, since the 2007 visit, the number of telephone booths had more than doubled in Pavilion VII of Požarevac-Zabela Correctional Institution; further, some payphones had been installed in the Institution's exercise yards. In general, sentenced prisoners in the establishments visited had access to telephone as provided for in the law.

98. The legal framework as regards *correspondence* for both remand and sentenced prisoners has been amended since the 2007 visit so as to ensure that monitoring of correspondence is decided by a court, for a specified period of time, upon a recommendation of the prison governor and only for security and safety reasons. Appeal against the decision to monitor an inmate's correspondence is possible within three days. Monitoring of correspondence with prisoners' lawyers, the Ombudsman, or State bodies and international organisations for the protection of human rights is not allowed. Contrary to the situation observed in 2004 and 2007, the delegation was pleased to note that the practice of systematic reading of remand prisoners' correspondence with their lawyers had been discontinued.

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regime section; unsupervised visits with spouses/children and other close relatives or friends (in special rooms) may be granted for a minimum of three hours once every three months.

<sup>63</sup> Pursuant to Section 36 of the Law on the Execution of Prison Sentences for Criminal Offences of Organised Crime.

c. discipline/solitary confinement<sup>64</sup>

99. The delegation did not find evidence of excessive use of placement in solitary confinement in any the establishments visited<sup>65</sup>.

Pursuant to the LECS (and despite previous recommendations by the CPT), there is a mandatory medical examination before the enforcement of the solitary confinement measure. Consequently, with the notable exception of Požarevac Correctional Institution for Women (where the practice was that an outside doctor was specifically called in to avoid compromising the patient-doctor relationship), prison doctors continued to be obliged to certify that inmates were fit for punishment prior to a decision on solitary confinement being taken.

The Committee wishes to stress that medical practitioners working in prisons act as the personal doctors of prisoners, and ensuring that there is a positive doctor-patient relationship between them is a major factor in safeguarding the health and well-being of prisoners. Obliging prison doctors to certify that prisoners are fit to undergo punishment is scarcely likely to promote that relationship. This point was recognised in the Committee of Ministers' Recommendation (2006) 2 on the European Prison Rules; indeed, the rule in the previous version of the Rules, stipulating that prison doctors must certify that a prisoner is fit to sustain the punishment of disciplinary confinement, has now been removed.

**The CPT reiterates its recommendation that the existing regulations and practice concerning the role of prison doctors in relation to disciplinary matters be reviewed. In so doing, regard should be had to the revised European Prison Rules and the comments made by the CPT in paragraph 53 of its 15<sup>th</sup> General Report (CPT/Inf (2005) 17).**

100. It appeared during the visit that solitary confinement implied deprivation of visiting and telephone rights for sentenced prisoners. As regards remand prisoners, the main disciplinary sanction imposed by the courts was deprivation of visits.

In the CPT's view, disciplinary punishment of prisoners should not involve a total prohibition of family contacts, and any restrictions on family contacts should be imposed only where the offence relates to such contacts<sup>66</sup>. **The CPT recommends that steps be taken to amend the relevant legislation accordingly.**

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<sup>64</sup> Under the legislation in force, the period of solitary confinement may not exceed 15 days (30 days in the case of concurrence of disciplinary offences). It may not exceed 6 months in total during a given calendar year.

<sup>65</sup> For example, there had been 61 placements in solitary confinement at Požarevac-Zabela Correctional Institution in the course of 2010 (and six between 1 January and 1 February 2011) and 97 cases in 2009. There had been 13 placements in 2010 at Požarevac Correctional Institution for Women (and 2 in the first month of 2011); and 30 cases of relocation to a single room (used as a preventive measure generally lasting 24 hours) in 2010 at Belgrade District Prison as regards remand prisoners. Three of the six placement decisions issued at Požarevac-Zabela Correctional Institution in January 2011 had been suspended and, provided the prisoners involved did not receive another sanction within the following six months, would not be executed.

<sup>66</sup> See also Rule 60.4 of the revised European Prison Rules.

101. The delegation noted that the in-house lawyers, who *inter alia* took part in the meetings of disciplinary commissions of the establishments visited, also acted as legal advisors to prisoners; this posed a clear problem of conflict of interests on the one hand and, on the other hand, did not favour the development of a relationship of trust between prisoners and the lawyers concerned. While welcoming the fact that prisoners are entitled to legal advice during the disciplinary procedure, **the CPT invites the Serbian authorities to remedy the above-mentioned procedural shortcoming by granting the prisoners the possibility of legal representation, independent from the establishment concerned, in the context of the disciplinary procedure.**

d. "coercive means"

102. The legal framework for the use of "coercive means" has remained basically the same as described in the report on the 2007 visit<sup>67</sup>. The delegation noted that resort to "coercive means" was relatively rare in the prisons visited and that the relevant records were well kept. A medical examination followed each use of force.

That said, at the Požarevac Correctional Institution for Women, prisoners could be fixated for what appeared to be lengthy periods (24 hours) and without continuous and direct monitoring by the staff. **Urgent steps are required to remedy this situation.**

The CPT understands that it is necessary on occasion to resort to means of restraint in a prison setting. **However, in the Committee's view, means of restraint ("coercive means") should rarely need to be applied for more than a few hours, unless there is a medical condition requiring this. The latter cases should be fully under the control of a doctor called upon to assess the need for restraint and not to certify fitness for restraint. Means of restraint should be removed at the earliest opportunity; they should never be applied, or their application prolonged, as a punishment.**

e. complaints and inspection procedures

103. Prisoners in the establishments visited were generally well informed of the avenues of complaint available. Inmates could transmit their complaints (to the director, the Ministry of Justice or to the Ombudsman) in writing in sealed envelopes.

104. As regards external supervision, the delegation noted that at Belgrade District Prison, a judge from the local court visited the establishment every second Friday, escorted by a staff member. He could talk to prisoners and deal with complaints from them; in addition, a psychologist accompanied the judge and focused on any juvenile prisoners. However, the judge did not enter the prisoner accommodation areas and did not hold confidential interviews with the inmates. **The CPT would welcome the comments of the Serbian authorities on this issue.**

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<sup>67</sup> See paragraph 107 of CPT/Inf (2009) 1.

As already mentioned, the Office of the Protector of Citizens (Ombudsman) was now fully operational. However, the Parliamentary Committee<sup>68</sup> referred to in Section 278 of the LECS was still not in place and there was no indication as to whether and when that might happen. **The CPT would like to receive the comments of the Serbian authorities on the reasons for the lack of progress in setting up the above-mentioned Parliamentary Committee.**

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<sup>68</sup> See also paragraph 110 of CPT/Inf (2009) 1.



## C. Establishments under the authority of the Ministry of Health

### 1. Preliminary remarks

105. The delegation carried out a first-time visit to the Special Psychiatric Hospital in Gornja Toponica (near Niš) and a targeted follow-up visit to Dr Laza Lazarević Special Psychiatric Hospital in Belgrade<sup>69</sup>, where it focussed on the use of means of restraint in the intensive care ward (ICW), male acute Ward K and two female acute Wards (L and F), and the legal safeguards for involuntary patients.

106. During the meeting at the Ministry of Health at the outset of the visit, the delegation was informed of the progress in the implementation of the “Strategy for the Development of Mental Health Care” (adopted in 2007) and the 10-year Action Plan attached to the Strategy. The Action Plan aimed in particular at gradually reducing the size and closing down of some of the psychiatric hospitals, and the development of community care. However, the economic crisis that Serbia had been facing in the recent years had forced the authorities to delay the implementation of a large part of these plans. The Ministry’s intention was nevertheless progressively (by 10% each year) to reduce the capacity in special psychiatric hospitals. Among other intended measures, it was planned gradually to move acute psychiatry wards to general hospitals (located closer to patients’ homes) and to pursue efforts to develop outside structures for persons with mental health problems.

Indeed, as the delegation again observed at the Special Psychiatric Hospital in Gornja Toponica, hundreds of patients no longer requiring hospitalisation remained in the establishment for years on end, only because they had nowhere to go (according to the hospital’s director, some 40% of all the patients were in this situation). **The CPT calls upon the Serbian authorities to attach the highest priority to further implementation of the Strategy and Action Plan for the Development of Mental Health Care, with a particular emphasis on the deinstitutionalisation process**<sup>70</sup>.

107. The Special Psychiatric Hospital in Gornja Toponica occupies extensive, wooded and fenced grounds in the village of Gornja Toponica, 17 km from Niš. Opened as a purpose-built hospital in 1926, it comprises several pavilions housing 19 wards<sup>71</sup>, each accommodating between 35 and 80 patients. A few of the buildings had been added in the 1960s and 1970s. With a catchment area covering the south of Serbia and an official capacity of 780 beds, at the time of the visit the hospital was accommodating 727 adult patients, including 80 forensic (69 male and 11 female), 28 patients undergoing the compulsory drug or alcohol treatment measure, and 494 formally considered as civil involuntary patients<sup>72</sup>.

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<sup>69</sup> This establishment was visited by the CPT in 2004; see paragraphs 169 to 202 of CPT/Inf (2006) 18.

<sup>70</sup> Reference should also be made to the UN Convention on the Rights of Persons with Disabilities, ratified by Serbia in 2009.

<sup>71</sup> A male and a female admission ward; a male and a female acute ward; a male and a female forensic ward; an alcoholism and a drug addiction ward; two old age psychiatry wards; a male semi-intensive treatment ward; a male and a female long-term treatment ward (MOPD and ŽOPD); a female “terminal” or A ward (for patients suffering from the most severe conditions, requiring permanent hospitalisation); a male occupational therapy ward; a male psycho-social rehabilitation ward; an internal diseases ward (under refurbishment at the time of the visit); and two hostels (half-way houses), one for men and one for women.

<sup>72</sup> 584 of the patients had been initially admitted as involuntary but some had subsequently consented to their

As regards the length of hospitalisation, whilst some 25% of the patients had stayed in the hospital for up to 3 months, there was a significant percentage of long stay patients (nearly half of all the patients having been in the hospital for over 4 years, and about 20% for longer than 10 years, occasionally up to 30 years). Most of these patients had lost their family and social ties. There were also some elderly patients who were accommodated in the old age psychiatry wards based on an agreement between the establishment and their families (who agreed to pay for the patients' stay); further, the hospital performed the function of a palliative care establishment for the Niš region and admitted (mostly to the internal diseases ward) some terminally somatically ill patients, which was notably reflected in the death statistics (see also paragraph 141).

108. As already mentioned, the follow-up visit to Dr Laza Lazarević Special Psychiatric Hospital in Belgrade was of a targeted nature and consequently this report will not deal with many issues concerning this establishment, such as patients' living conditions, treatment and activities, staffing, etc. That said, at the end of the visit the delegation did raise one general issue of considerable concern to the Committee, namely the lack of outdoor exercise possibilities for the great majority of patients<sup>73</sup> accommodated in the facility located on Višegradska street. As already mentioned in paragraph 8, at the end of the visit the delegation invoked Article 8, paragraph 5, of the Convention and requested the Serbian authorities to provide, within three months, information about steps taken to ensure that all patients at Dr Laza Lazarević Special Psychiatric Hospital, whose medical condition so permits, are offered the possibility to take outdoor exercise every day.

In their letter of 19 May 2011, the Serbian authorities informed the Committee that patients in the Belgrade Sector of Dr Laza Lazarević Hospital are given the possibility to take outdoor walks within the hospital's grounds. However, "because escapes are not rare", such walks take place "for a short time and in small groups", which presumably means that not all of the patients – whose health so permits – have the possibility of taking outdoor exercise every day. **The CPT calls upon the Serbian authorities to find a solution to the current situation that would reconcile the patients' right to daily outdoor exercise and the hospital's security-related concerns; one way of achieving this could be to set up a suitably secure exercise area on the hospital grounds, to be used by involuntary patients considered as presenting a high escape risk.**

## 2. Ill-treatment

109. Most of the patients interviewed by the delegation at the Special Psychiatric Hospital in Gornja Toponica spoke highly of the staff. The atmosphere on the wards was generally relaxed and the delegation gained the impression that the great majority of the staff were doing their best to care for the patients, under often difficult circumstances.

That said, the delegation heard a few allegations that certain members of the ward-based staff would sometimes shout at and occasionally push or slap patients. In this respect, **the CPT recommends that all nurses and auxiliary staff at the Special Psychiatric Hospital in Gornja Toponica be reminded that any form of ill-treatment of patients is not acceptable and will be the subject of severe sanctions.**

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treatment in the hospital; see also paragraph 135.

<sup>73</sup> With the exception of those benefiting from weekend leaves.

110. The risk of patients being injured by other patients was considerable at the Gornja Toponica Hospital; the delegation witnessed friction between patients, including pushing and punches, and saw some patients who had sustained injuries after having been attacked by other patients. This is hardly surprising given the low staff presence on the wards (see paragraph 122). **The Committee recommends that steps be taken to ensure that staff at the Special Psychiatric Hospital in Gornja Toponica protect patients from other patients who might cause them harm. This requires not only adequate staff presence and supervision at all times, but also that staff be properly trained in handling challenging situations/patients.**

### 3. Patients' living conditions

111. The delegation noted that some areas of the Special Psychiatric Hospital in Gornja Toponica were being refurbished, especially the bathrooms and the toilets. Patient accommodation areas were generally clean, warm, airy and bright; the overall state of the beds and the bedding was also adequate.

However, the large-capacity dormitories (measuring from 35 to 160 m<sup>2</sup> and containing from 6 to 26 beds each) were generally austere and impersonal<sup>74</sup> (with beds sometimes touching each other), and there was a lack of privacy and nearly no lockable space for the patients<sup>75</sup>. The long-term male ward (MOPD) calls for a special mention: despite some recent refurbishment, living conditions there were particularly poor, and most of the patients spent a significant part of the day in a crowded and chaotic day room which did not even have enough chairs for all of them.

112. Patients could take a shower at least twice a week and more frequently if needed. The hospital provided patients with a range of personal hygiene items. Further, special mattresses and diapers were available for the incontinent patients.

The patients' clothes – although decent and adequate for the season – were not individualised, and in some wards (especially the MOPD and the old age psychiatry wards) the delegation saw patients wearing pyjamas the whole day. In this connection, the CPT must stress that such a practice is not conducive to strengthening personal identity and self-esteem; individualisation of clothing should form part of the therapeutic process.

113. The hospital's management informed the delegation that patients were offered adequate food. Indeed, the examination of the menus revealed that meat, fish, fresh vegetables and fruit were included in the menus on a daily basis. Most of the patients interviewed by the delegation said that the food was sufficient both in quantity and quality.

The hospital's central kitchen had been partially refurbished recently, and was clean and in good working order.

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<sup>74</sup> With the exception of those in the occupational therapy ward, the psycho-social rehabilitation ward, the paid accommodation in the old age psychiatry wards, and the hostels.

<sup>75</sup> With the notable exception of the long-term female ward, where patients had access to cupboards to which they had the keys.

114. **The CPT recommends that steps be taken at the Special Psychiatric Hospital in Gornja Toponica in order to:**

- **continue the refurbishment programme, with a particular focus on the male long-term ward (MOPD); in the context of this refurbishment, the possibility of transforming large-capacity dormitories into smaller structures should be considered;**
- **reduce the occupancy levels in the dormitories;**
- **offer a more congenial and personalised environment to all the patients, in particular by providing them with lockable space and allowing a reasonable number of personal belongings<sup>76</sup>;**
- **allow all patients to wear as far as possible their own clothes during their stay.**

115. In the old age psychiatry wards, the delegation noted that some of the patients' rooms were mixed-gender. The CPT acknowledges the potential benefit of a mixed-gender ward, but this should not be to the detriment of privacy, dignity and security of patients. Special precautions are required to ensure that patients are not subjected to inappropriate interaction with other patients which threaten their privacy and dignity. **The CPT recommends that the Serbian authorities take measures to ensure that patients accommodated in the old age psychiatry wards of the Special Psychiatric Hospital in Gornja Toponica are not subjected to inappropriate interaction with patients of the opposite sex. In particular, patients of each gender should have their own protected bedrooms and sanitary areas.**

#### 4. Treatment and regime

116. Psychiatric treatment at the Special Psychiatric Hospital in Gornja Toponica was based essentially on *pharmacotherapy*. There were no problems with the supply of psycho-active medication and the delegation did not find any evidence of overmedication.

117. By contrast, the range of other therapeutic options was underdeveloped. Most of the patients did not benefit from *psycho-social rehabilitative activities*, which were essentially available (in the mornings on working days) to some 100 patients accommodated in the psycho-social rehabilitation and occupational therapy wards. A few patients were participating in individual and group psychotherapy (according to the “therapeutic community” concept).

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<sup>76</sup> In this context, it is noteworthy that (as stated by the Serbian authorities in their letter of 19 May 2011), 77 lockers were purchased by the hospital in March 2011. This is a good beginning, which should be followed by other measures to implement the above recommendation.

As for other therapeutic and rehabilitative activities, some 60 patients per day were engaged in activities (e.g. drawing, painting, knitting, sculpture, pottery, carpentry, leatherwork, theatre, music and sports) in a well-equipped facility set out for this purpose (the “Centre for Psycho-Social Rehabilitation”). Further, a few patients performed simple cleaning or repair tasks on a voluntary basis, for which they received a symbolic salary.

Some attempts to work in a multi-disciplinary manner (i.e. holding weekly meetings with the participation of doctors, psychologists and social workers) were observed at the Gornja Toponica Hospital; however, there was scope for much more team work including also the nurses. The medical files and other documentation were generally well kept, although the delegation noted that the entries in medical files of many long-term patients were relatively succinct and infrequent<sup>77</sup>. Further, there was no trace of individualised treatment plans in the medical files examined.

118. As regards *recreational activities*, patients could watch television and listen to the radio in the wards’ day rooms, read newspapers and borrow books from the hospital’s library and play board games. Those allowed to walk outdoors without escort (i.e. some 60% of the patients) could also go to the “café” located on the hospital grounds. Twice a month, film projections or (more rarely) theatre shows were organised in the “club” set out for this purpose.

Further, group and individual excursions to Niš and other locations were organised in the summer months, mostly for the patients from the psycho-social rehabilitation and occupational therapy wards. That said, a large proportion of patients spent most of their day with little else to occupy their time than watching TV, smoking and sleeping.

119. **The CPT recommends that:**

- **efforts be made to expand the range of therapeutic options and involve more patients in psycho-social rehabilitative activities, preparing them for a more autonomous life or return to their families; occupational therapy should be an important part of a patient’s long-term treatment programme, providing for motivation, development of learning and relationship skills, acquisition of specific competences and improving self-image;**
- **an individual treatment plan be drawn up for each patient (taking into account the special needs of acute, long-term and forensic patients including, with respect to the last-mentioned, the need to reduce the risk of their reoffending), comprising the goals of the treatment, the therapeutic means used and the staff members responsible. Patients should be informed of their individual treatment plans and progress; further, they should be involved in the drafting and implementation of these plans.**

**The Committee also invites the Serbian authorities to make efforts to involve more patients at the Special Psychiatric Hospital in Gornja Toponica in recreational activities adapted to their needs.**

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<sup>77</sup> E.g. six one-sentence entries in the file of a patient from A Ward, covering the whole of 2010.

120. The delegation was concerned to observe that only very few patients from the admission and old age psychiatry wards, and less than half of those from the long-term wards, had access to daily outdoor exercise, and that for many patients from the above wards the last outside walk dated back to the summer of 2010. In this respect, the delegation invoked Article 8, paragraph 5, of the Convention and requested the Serbian authorities to provide, within three months, information about steps taken to ensure that all patients, whose medical condition so permits, are offered the possibility to walk outdoors every day.

In their letter of 19 May 2011, the Serbian authorities informed the CPT that the Director of Special Psychiatric Hospital in Gornja Toponica had issued a written order to her staff to ensure that all the patients (whose health permits) are able to take daily outdoor walks within the hospital's grounds, if necessary under staff supervision. The Committee welcomes this positive development.

121. Somatic (including dental) care was provided both by the doctors employed in the hospital and by visiting consultants (including a lung specialist and a gynaecologist). All patients underwent a medical examination on admission, which included blood and urine tests. Further, an X-ray chest examination was performed on newly-arrived patients (to detect tuberculosis). Patients with detected active TB were transferred to the specialised hospital in Bela Crkva. The hospital possessed the necessary equipment (X-ray, ultrasound, EEG, laboratory, etc). In case of need, transfer to the hospitals in Niš was said not to pose any problem.

The hospital's internal diseases ward was undergoing refurbishment at the time of the visit, and was to be reopened in the near future. The management informed the delegation that the ward would have modern equipment, including for intensive somatic care. **The CPT would like to receive confirmation that the refurbished somatic ward at the Special Psychiatric Hospital in Gornja Toponica has been reopened.**

## 5. Staff

122. At the time of the visit, Gornja Toponica Special Psychiatric Hospital employed 38 full-time psychiatrists or neuro-psychiatrists, including the director and her deputy<sup>78</sup>. Doctors were assisted by a number of technicians (pharmacists, X-ray, laboratory, etc). The nursing staff comprised 212 full-time nurses (including 30 senior nurses with university degree); there were no vacant posts. The nurses had not received specialised training in psychiatry during their studies but were being trained on the job. Further, there were 71 auxiliary/cleaning staff.

After 3 pm and on weekends, there were two doctors on duty for the whole hospital. The nurses worked in shifts following the pattern 12h – 24h off – 12h – 3 days off, with one to three nurses (and one or two auxiliaries) per shift on each ward.

As regards other staff qualified to provide therapeutic activities, at the time of the visit, there were seven clinical psychologists (three of them being trainees), ten occupational therapists, one special pedagogue and three social workers.

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<sup>78</sup> There were also seven trainee psychiatrists and several somatic specialists (including three internal medicine specialists; a radiologist; a dentist; and a GP).

123. To sum up, the psychiatrist/patient ratio at the time of the visit, i.e. 1:19, could be considered as sufficient to meet the hospital's needs. However, the number and attendance hours of the nurses, auxiliaries and other staff qualified to provide psycho-social rehabilitative activities will have to be increased for the CPT's recommendations concerning treatment and activities to be implemented. Further, it could be considered that there is a link between the present nursing/auxiliary staff attendance pattern and the extent of inter-patient violence, access to outdoor exercise and to activities for the patients.

**The CPT recommends that the Serbian authorities take steps at the Special Psychiatric Hospital in Gornja Toponica to:**

- **increase the number and presence of nurses and auxiliary staff on the wards;**
- **reinforce substantially the team of specialists qualified to provide psycho-social rehabilitative activities (psychologists, occupational therapists, social workers, etc.).**

More generally, **the CPT reiterates its recommendation that specialised training – both initial and ongoing – be developed in Serbia for nurses working with psychiatric patients.**

124. The delegation was concerned that employees of a private security company (based at the hospital entrance and responsible for protecting the establishment's property), wearing black combat-style uniforms and carrying guns, were sometimes asked by nurses and auxiliaries to accompany them during night-time transfers of agitated patients from their usual wards to the admission/acute wards. **The Committee recommends that this potentially intimidating practice be stopped immediately.**

## **6. Means of restraint**

125. The issue of the recourse to means of restraint was examined by the CPT's delegation in both psychiatric establishments visited; consequently, the remarks made in paragraphs 126 to 130 refer to both Dr Laza Lazarević Special Psychiatric Hospital in Belgrade and Special Psychiatric Hospital in Gornja Toponica, unless stated otherwise.

126. Seclusion was not used at Dr Laza Lazarević and Gornja Toponica hospitals. As for mechanical restraints (leather belts and occasionally cotton strips at Dr Laza Lazarević Hospital; straightjackets, leather belts or cotton strips at Gornja Toponica), they were always applied by the nurses, exclusively on the order of a doctor.

Recourse to the use of means of mechanical restraint varied greatly between the wards visited at Dr Laza Lazarević Hospital; it was – not surprisingly – most frequent at the Intensive Care Ward<sup>79</sup> but was also frequent on the two female wards<sup>80</sup>, while fixation was much less used on the male K Ward<sup>81</sup>. In general, the recourse to the use of mechanical restraint was not excessive at Special Psychiatric Hospital in Gornja Toponica; that said, at the long-term female ward, staff acknowledged that restraint could be used less frequently if there were more nurses and auxiliaries present<sup>82</sup>.

In both hospitals, mechanical restraints were generally not applied for more than two hours at a time; however, there were exceptions, with cases of repeated or continuous fixation of up to 8 hours at the Special Psychiatric Hospital in Gornja Toponica. As for the Dr Laza Lazarević Hospital, the delegation found in the relevant register that restraints had been applied for up to 16 hours in one case<sup>83</sup> and for six hours without interruption in two other cases.

127. In the F Ward of the above-mentioned establishment, the delegation found that the same patient had been repeatedly restrained based on a blanket authorisation issued by the doctor (“apply restraint for 2 hours maximum as needed”). In this context, the Committee was pleased to note that – as stated in the letter from the Serbian authorities of 19 May 2011 – the management of Dr Laza Lazarević Special Psychiatric Hospital in Belgrade had issued instructions to the doctors and nurses to cease this practice. At present, the nurses are required to immediately inform the doctor in each case when a patient becomes agitated and/or aggressive, with a view to seeking the doctor’s decision on whether to apply means of restraint.

128. The use of means of restraint was well recorded at the Gornja Toponica Hospital. As for Dr Laza Lazarević Hospital, the restraint register was detailed and generally well kept at the Intensive Care Ward; however, the same could not be said of the other wards, and no register at all for 2010 could be found in respect of the F Ward.

In their letter of 19 May 2011, the Serbian authorities informed the CPT that steps had already been taken by the management of Dr Laza Lazarević Special Psychiatric Hospital in Belgrade to ensure that the registers of the use of means of restraint on all the wards are properly kept; the Committee welcomes this.

129. In both hospitals visited, patients were being restrained in full view of (and in areas easily accessible to) other patients, without continuous and direct monitoring by the staff. **The CPT recommends that these practices be discontinued without delay; mechanical restraints should not be applied to a patient in the sight of other patients, unless he/she explicitly requests otherwise or when the patient is known to have a preference for company, and it is safe.**

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<sup>79</sup> Five instances per day on average.

<sup>80</sup> Up to 15 cases per month on each of the two female wards visited.

<sup>81</sup> E.g. four cases between 1 January and 9 February 2011; and three to eight per month in the course of 2010.

<sup>82</sup> For example, there had been 37 instances of the use of mechanical restraint at the above-mentioned ward in November 2010 (up to six per day), 38 cases in December 2010 (up to four per day) and 18 cases in January 2011.

<sup>83</sup> In their letter of 19 May 2011, the Serbian authorities expressed the view that the 16-hour restraint period could have been the result of inaccurate recording of the repeated two-hour restraint measures.



Further, **there must be continuous, direct and personal supervision by nearby staff during the restraint measure<sup>84</sup>. Special vigilance should be exercised when applying mechanical restraints to physically ill patients because of the much higher risk of complications** (e.g. pulmonary embolism).

At Dr Laza Lazarević Hospital in Belgrade, the delegation was also concerned by the frequent application of restraints to the ankles only; in this context, the Committee welcomes the decision to stop this practice, announced by the Serbian authorities in their letter of 19 May 2011.

130. The CPT is concerned to note that, despite its long-standing recommendations to this effect, no detailed and clear written policy/instructions have been adopted by the Ministry of Health regarding the use of restraint measures in psychiatric establishments<sup>85</sup>. The Committee understands that this is one of the consequences of the continuous absence of a comprehensive legal framework for the psychiatry sector (in particular, a Mental Health Act, see paragraph 131), given that such instructions/policy would normally have to be issued in the form of a sub-legal act pursuant to the adoption of the above-mentioned legislation. Nevertheless, given the urgency of the matter, the Committee believes that such instructions could be issued without waiting for the entry into force of the new Mental Health Act. Consequently, **the CPT calls upon the Serbian authorities to adopt, without further delay, a policy/instructions for the use of means of restraint<sup>86</sup>.**

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<sup>84</sup> See also paragraph 102.

<sup>85</sup> It is noteworthy that the management of the Special Psychiatric Hospital in Gornja Toponica had itself taken the initiative to issue such instructions to the establishment's staff, following an incident (tying a patient to a radiator by a member of the auxiliary staff) that had occurred in 2008.

<sup>86</sup> As was already stressed in the reports on the CPT's previous visits to Serbia, such a policy/instructions should define the use of any means of restraint as a matter of last resort in cases of emergency (imminent danger for the patient or others), after other reasonable alternatives have failed to prevent or stop the dangerous situation. Alternatives to restraint should be actively looked at by staff together with the patients. The aforementioned policy/instructions should specify that initial attempts to restrain agitated or violent patients should, as far as possible, be non-physical (e.g. verbal instruction) and that, where mechanical restraint is necessary, it should in principle be limited to manual control. Further, if the application of mechanical restraints is required, it should be for the shortest time possible and be frequently reviewed (e.g. every two hours), and the patient should be under the direct personal supervision of the staff.

The adoption of such a policy/instructions should be accompanied by practical training on approved control and restraint techniques, which must involve all staff concerned (doctors, nurses, etc.) and be regularly updated. Patients should also be duly informed (in writing) of the establishment's restraint policy/instructions as well as the existing complaints mechanisms.

It is not uncommon that the application of means of restraint is perceived by patients as a form of punishment. In order to avoid such a misunderstanding and further develop the doctor-patient relationship, patients who have been subject to – or have witnessed the application of – means of restraint should receive a debriefing at the end of the measure. This will provide an opportunity for the doctor to explain the need for the measure and thus help relieve uncertainty about its rationale. For the patient, such a debriefing would be an occasion to explain his/her emotions prior to the restraint, which may improve both the patient's own and the staff's understanding of his/her behaviour. See also the CPT's 16<sup>th</sup> General Report (CPT/Inf (2006) 35), paragraphs 36 to 54.

## 7. Safeguards

131. The legal framework for involuntary psychiatric hospitalisation and treatment has basically not changed since the 2007 visit; consequently, it remained incomplete and imperfect<sup>87</sup>. Managements of both hospitals visited tried to fill the legal lacunae but this could not compensate for the absence of a comprehensive Mental Health Act and the lack of clear guidelines from the central authorities. Unsurprisingly in such circumstances, the practice observed was very inconsistent.

**The CPT recommends that steps be taken by the Serbian authorities to adopt the new Mental Health Act and relevant subordinate legislation without further delay.**

132. As regards the initial hospitalisation procedure, the delegation observed in both hospitals visited that the establishments' internal psychiatric commissions generally respected the 48-hour time limit for submitting requests for involuntary hospitalisation to the courts. However, the situation was less favourable with respect to the court procedure. Whilst the judges from Belgrade courts frequently – at least twice a week – came to hear the newly-admitted patients at Dr Laza Lazarević Hospital<sup>88</sup>, this was not systematically the case in Gornja Toponica, where the judges usually held hearings once a week but occasionally only twice or even only once per month<sup>89</sup>. Further, especially as regards the patients hospitalised at Special Psychiatric Hospital in Gornja Toponica, the courts often failed to take their decisions expediently<sup>90</sup>.

As had been the case during the previous visits to Serbia, the delegation noted that no independent medical expertise was involved in the involuntary psychiatric hospitalisation procedure<sup>91</sup>, and many of the patients interviewed by the delegation were unaware of the recommendations of the internal psychiatric commission, the court decisions and the legal remedies available.

Moreover, involuntary psychiatric patients had no effective legal assistance<sup>92</sup> and were not provided with copies of the court decisions, which rendered their right of appeal ineffective in practice<sup>93</sup>.

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<sup>87</sup> See the comments and recommendations in paragraphs 134 to 145 of CPT/Inf (2009) 1, reproduced in Appendix III. As regards forensic psychiatric patients, reference is made to paragraph 88.

<sup>88</sup> The hearings on the hospital premises were as a rule attended by the following hospital staff: two psychiatrists (including at least one forensic expert), a clinical psychologist and sometimes a social worker.

<sup>89</sup> In addition, the delegation noted that the number of persons heard by the judges per each session could sometimes be extremely high. For example, 94 cases were examined during the 3.5-hour hearing on 28 January 2011, which gave two minutes and 20 seconds per case on average. This seemed to be an exceptional situation but even the more usual number of persons heard per session (25 to 30) would suggest that the right to be heard was of a relatively formal character at the Gornja Toponica Hospital.

<sup>90</sup> In Gornja Toponica the period could be as much as six weeks; in Belgrade the periods observed were much shorter (up to five days).

<sup>91</sup> Although the system put in place at Dr Laza Lazarević Special Psychiatric Hospital – whereby doctors deciding on admissions were not involved in the treatment of patients on the wards – went some way towards meeting this concern.

<sup>92</sup> In both hospitals visited, patients had access to legal representatives (Patient Ombudspersons) who were hospital employees. However, the said representatives had no right to represent patients in procedures before the judicial or administrative bodies, and could not initiate legal procedures to defend patients' interests.

<sup>93</sup> In these circumstances, it was hardly surprising that there were very few appeals against the court decisions confirming involuntary hospitalisation measures, e.g. only two to three per year in Gornja Toponica (none successful).

The CPT recommends that efforts be made to ensure that – in the context of the involuntary hospitalisation procedure – courts take decisions expediently, in particular as regards persons admitted against their will to the Specialised Psychiatric Hospital in Gornja Toponica.

Further, involuntary psychiatric patients in Serbia should be systematically informed of the recommendations of the psychiatric commissions and the court decisions (and be given copies of these documents<sup>94</sup>), as well as of the legal remedies available to challenge them.

The CPT also reiterates its recommendations that steps be taken to ensure that:

- involuntary patients have effective access to legal assistance (independent of the admitting hospital), if necessary free of charge;
- continuation of the initial involuntary placement requires the opinion of an independent psychiatrist.

133. Consent forms, which the patients were asked to sign on admission to both hospitals, were drafted in a manner requiring their blanket agreement to any diagnostic and treatment measures, and failed to address specifically the issue of consent to hospitalisation. In the CPT's view, **consent to hospitalisation and consent to treatment are two distinct issues and patients should be requested to express their position on both of these issues separately.**

It is also noteworthy that a number of patients interviewed by the delegation in both hospitals were unaware of their diagnosis and the treatment they were receiving. **The Committee reiterates its recommendation that steps be taken to ensure that psychiatric patients (and if they are legally incompetent, also their guardians) are provided with full, clear and accurate information before consenting to treatment (including on the possibility to withdraw their consent), both at the time of hospitalisation and prior to any treatment in the course of hospitalisation. Relevant information should also be provided to patients (and their guardians) during and following the treatment.**

134. The delegation noted a difference in practice between the two psychiatric hospitals visited as to what constituted an involuntary hospitalisation: in Gornja Toponica, all patients brought by the police and/or their families were assumed to have been hospitalised against their will, and such patients were not asked to sign the consent form (but the involuntary hospitalisation procedure was automatically initiated instead). Also all admissions to the old age psychiatry wards and admissions of learning disabled persons were automatically treated as involuntary hospitalisations. This explained the relatively high proportion of formally involuntary patients at the hospital (see paragraph 109).

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<sup>94</sup> In their letter of 19 May 2011, the Serbian authorities informed the CPT that steps had already been taken at Dr Laza Lazarević Special Psychiatric Hospital to address this problem.

The interpretation of what constitutes an involuntary hospitalisation was somewhat different at Dr Laza Lazarević Hospital: patients brought by families with a referral from their treating doctor/psychiatrist (over 90% of all admissions, according to the director) were considered as voluntary, and only some 9% of admissions were formally considered as involuntary (mostly when patients had been brought by the police and/or an ambulance, in emergencies). Further, some 20% of the patients at the above-mentioned establishment (the elderly, the homeless, those without a legal guardian and those not able to understand their situation) were “presumed voluntary” by the hospital’s management, which was exactly the opposite approach to the one observed at Gornja Toponica.

More generally, despite efforts to safeguard the patients’ rights in both establishments visited, the absence of a clear legal framework and detailed instructions from the Ministry of Health resulted in an evident confusion amongst the health-care staff. For example, at Gornja Toponica, the delegation saw files of forensic or legally incompetent patients who had been considered as “voluntary” because consent forms had been signed by them on arrival. Such examples only highlight the need to adopt, as the earliest opportunity, a clear and comprehensive legal framework referred to in the recommendation in paragraph 131.

135. The procedure in the case of subsequent transformation of a patient’s legal status from involuntary to voluntary and vice versa was unclear and inadequately reflected in the relevant documentation (especially at Dr Laza Lazarević Special Psychiatric Hospital). In particular, if a patient admitted against his will subsequently agreed to his hospitalisation, no separate legal procedure was followed. This fact was only mentioned with a brief entry by the doctor in the patient’s medical file, there was no signature of the patient and no consent form was given to him/her. **The CPT recommends that measures be taken to remedy this deficiency.**

136. In both psychiatric hospitals visited, the delegation found – in patients’ individual files – cases when the court decision had expired several days or weeks previously but there was no trace of a new court decision prolonging the measure, nor a proof that the patient’s stay had continued on a voluntary basis. Further, at Special Psychiatric Hospital in Gornja Toponica, the delegation noted that the legal status of approximately 400 patients (mostly those admitted more than 20 years ago) was unclear, which could *de facto* amount to deprivation of liberty without any legal grounds. The hospital’s management told the delegation that efforts were being made to gradually eliminate this situation.

**The Committee recommends that steps be taken in the hospitals visited – as well as in all other psychiatric establishments in Serbia – to ensure that the legal situation of all patients is fully clarified.**

137. As had been the case during the CPT’s previous visits to Serbia, in neither of the two psychiatric establishments visited were the patients (and their relatives) provided on admission with a brochure setting out the hospital’s routine and patients’ rights, including information about complaints bodies and procedures.

**The CPT reiterates its recommendation that such a brochure be drawn up and systematically provided to patients and their families on admission to all psychiatric establishments in Serbia. Any patients unable to understand such a brochure should receive appropriate assistance.**

138. In both psychiatric hospitals visited, patients had adequate possibilities to receive visitors; however, this was not the case as regards access to a telephone, which was completely banned at Dr Laza Lazarević Hospital and nearly impossible at the Gornja Toponica Hospital for patients not allowed to go outdoors without escort. **The Committee recommends that steps be taken to offer the patients at Dr Laza Lazarević Special Psychiatric Hospital in Belgrade the possibility to make and receive telephone calls, and to improve such possibilities for patients at the Gornja Toponica Hospital.**

Neither of the two hospitals visited possessed special facilities for visits; as a result, patients met their relatives and friends in the wards' corridors or common rooms. **The CPT recommends that steps be taken at the Special Psychiatric Hospital in Gornja Toponica and at Dr Laza Lazarević Special Psychiatric Hospital to set up appropriate facilities in which patients can meet their relatives and friends.**

139. Patients at both psychiatric hospitals visited could lodge complaints with a number of outside bodies, in particular courts and the Ombudsman. That said, it was in practice very difficult to send directly (i.e. other than through one's relatives or lawyer) a complaint in a confidential manner. **The CPT reiterates its recommendation that measures be taken to ensure that patients in all psychiatric establishments in Serbia are effectively in a position to send confidential complaints to outside authorities. The Committee also reiterates its recommendation that steps be taken to ensure that psychiatric establishments are visited on a regular basis by independent outside bodies responsible for the inspection of patients' care<sup>95</sup>.**

140. At Special Psychiatric Hospital in Gornja Toponica, the delegation observed that members of the patients' council, set up in 2009 and composed of elected representatives of the patients, met on a regular basis with the management and the doctors and discussed various issues related with the patients' life at the hospital. **The Committee would like to be informed whether this positive practice of user involvement has been extended to other psychiatric hospitals in Serbia.**

141. There had been a strikingly high number of deaths (123) among patients of the Special Psychiatric Hospital in Gornja Toponica in the course of 2010<sup>96</sup>. As already mentioned, this was explained by the management by the fact that the hospital *de facto* performed the function of a palliative care establishment for terminally ill (mostly very old) patients from the Niš area. In this context, the delegation was concerned to note that autopsies were only performed if the death was sudden, occurred less than 24h from admission to the hospital or concerned a patient younger than 60<sup>97</sup>.

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<sup>95</sup> These bodies should be authorised, in particular, to talk privately with patients, receive directly any complaints which they might have and make any necessary recommendations. Further, the management of all psychiatric establishments should be duly informed of the results of any inspections carried out on their premises. See also Article 16 (3) of the UN Convention on the Rights of Persons with Disabilities.

<sup>96</sup> Mostly in the old age psychiatry (54) and internal diseases (51) wards.

<sup>97</sup> Only two autopsies were performed in the course of 2010.

In the CPT's view, just as is the case with other closed institutions, when a patient in a psychiatric hospital dies, an autopsy should follow, unless a medical authority independent of the hospital decides that an autopsy is unnecessary<sup>98</sup>.

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

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<sup>98</sup> See also paragraph 76 and Recommendation Rec(99)3 of the Committee of Ministers of the Council of Europe to member states on the harmonisation of medico-legal autopsy rules.

## D. Juvenile Educational Institution in Niš

### 1. Preliminary remarks

142. The CPT's delegation visited, for the first time in Serbia, a juvenile establishment under the responsibility of the Ministry of Labour and Social Policy: the Juvenile Educational Institution in Niš. The Institution, opened in 1961, occupies a compound close to the centre of Niš, composed of two residential pavilions, an administrative/technical building, a school and an outdoor sports and recreation area. With the official capacity of 26<sup>99</sup>, the establishment was accommodating 20 juveniles (only boys) at the time of the visit.

143. The Institution was used to hold a mixture of juveniles (aged 15 to 18<sup>100</sup>) with different profiles and needs: boys subjected to “educational-correctional measures” by court order, pursuant to the Juvenile Offenders Act; boys placed for social protection by decision of the Centre for Social Work; and runaway and/or homeless juveniles (of both genders) admitted to the “shelter” by decision of the Niš Municipality (for the time needed to find a suitable accommodation and/or arrange identity documents for the juveniles concerned)<sup>101</sup>. Further, the Institution was soon to begin receiving unaccompanied foreign juveniles (of both genders), apprehended by the police while illegally staying in Serbia and awaiting return to their countries of origin<sup>102</sup>. The management acknowledged that this situation – involving three different Ministries (Labour and Social Policy, Justice and Interior) and several legal acts – was posing a challenge to the Institution. **The CPT would welcome the comments of the Serbian authorities on this subject. Further, the Committee would like to be informed of the precise legal basis for the detention of unaccompanied foreign juveniles at the Institution.**

144. Fourteen juveniles had been placed by court decision for the enforcement of an “*educational-correctional measure*”, which could last from 6 months to 2 years. A prolongation of the placement was decided on the basis of periodic reports submitted by the administration of the Institution, and legal assistance was provided to the juveniles concerned.

Another six juveniles had been placed by the *CSW decisions*, which were apparently of unlimited duration (but in no case after having reached the age of 18) and not subject to any legally defined periodic review. Despite discussions with the management and the staff, the delegation was not able to obtain a clear picture of the placement procedures applied in such cases.

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<sup>99</sup> Not including, however, the 10 places in the “observation/shelter” rooms; see paragraph 147.

<sup>100</sup> Exceptionally, juveniles aged 14 could be sent to the Institution if they had committed a serious criminal offence; further, for good behaviour juveniles subjected to an “educational-correctional” measure could be allowed by court to remain at the Institution beyond the age of maturity and until the end of their measure (but in any case no longer than until they have reached the age of 21).

<sup>101</sup> There were no such runaway and/or homeless juveniles in the Institution at the time of the visit.

<sup>102</sup> The delegation was informed by the director of the Institution that a foreign family had spent several days at the establishment recently, because there was no other place to accommodate them. It was not clear what was the legal basis for their detention at the Institution.

**The CPT would like to receive detailed information on the procedures applied in respect of juveniles admitted to the Educational Institution in Niš pursuant to social protection legislation, in particular as regards placement, review and discharge, applicable time-limits, availability of legal assistance and guardianship.**

## **2. Ill-treatment**

145. The delegation heard no allegations of ill-treatment of residents by staff at the Juvenile Educational Institution in Niš; on the contrary, juveniles interviewed by the delegation spoke highly of the staff and the atmosphere in the establishment was relaxed.

However, both the juveniles and the staff informed the delegation that incidents of inter-resident violence (bullying, verbal abuse and fights) did sometimes occur. **The CPT recommends that the management and staff of the Educational Institution for Juveniles in Niš exercise increased vigilance to prevent incidents of inter-resident violence and react appropriately if and when such incidents occur.**

## **3. Living conditions**

146. Juveniles were accommodated in rooms for one to three persons, measuring from 12 to 16 m<sup>2</sup>. The rooms were well lit, ventilated and heated, and every room had a balcony. The rooms and corridors were in need of redecoration and the furniture (beds, desk, chairs, lockers, chests, shelves, etc) was rather old, but juveniles had decorated their rooms in an attempt to create a homely atmosphere. The delegation saw ongoing refurbishment (replacing old doors and windows).

During the day, residents had access to common rooms furnished with sofas and armchairs and equipped with TV/DVD/radio sets, as well as to small kitchenettes where they could prepare coffee or tea. The communal toilets/showers, although also clearly in need of refurbishment, were generally clean and in working order.

**The CPT invites the Serbian authorities to pursue the refurbishment programme at the Juvenile Educational Institution in Niš.**

147. By contrast, conditions in the two "observation/shelter" rooms<sup>103</sup> were poor and even unsafe. The rooms (both measuring some 20 m<sup>2</sup>) had barred windows with opaque glass and were furnished with single and bunk beds<sup>104</sup>, tables, chairs and chests, as well as a TV set in each room. Access to natural light, artificial lighting, ventilation and heating were adequate but the walls and ceilings were damaged (with the presence of numerous sharp corners) and the furniture dilapidated; further, the rooms were unclean. The small adjoining bathrooms were also in an advanced state of dilapidation.

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<sup>103</sup> These rooms were used for accommodating (for a maximum of one month) newly-arrived juveniles undergoing initial assessment by the multi-disciplinary team. Further, they were used for holding the homeless/runaway juveniles (and, potentially, unaccompanied aliens) as well as for the purpose of accommodating juveniles who could not be placed together with the others on various (e.g. medical) grounds; see paragraph 153 below.

<sup>104</sup> Four beds in one room, six in the other.



**The CPT recommends that the above-mentioned deficiencies be corrected as a matter of priority.**

The delegation was informed of plans to provide special accommodation (two rooms and a bathroom) for unaccompanied aliens. **The Committee would like to be provided with more details of these plans.**

148. The delegation heard no complaints from the residents as regards the food, and was able to verify that the food provided at the Institution corresponded to the needs of juveniles.

#### **4. Treatment and activities**

149. Residents' files contained individual treatment plans with detailed and frequent entries, and multi-disciplinary team work (involving the psychologist, the pedagogue, the social worker and the educators) was in place.

The delegation was informed that juveniles were attending the secondary school in town, as well as the vocational school (metalwork) located on the premises of the Institution<sup>105</sup>. Further, some 10 residents (those without completed primary school level education) attended classes in an adult education institution in Niš. In their free time, juveniles could go out to the town (provided they returned before 8 pm). As regards physical education, the establishment had both an outdoor playground and an indoor gym, and offered a range of sports activities. There was also a library, a "club" with internet access and an arts workshop.

The regime applied at the Institution was thus generally quite open. However, this did not apply to the juveniles accommodated in the "observation/shelter" rooms (including unaccompanied aliens), who would be locked there with few available activities. Moreover, the delegation was informed by the management that homeless/runaway juveniles and unaccompanied aliens would normally not be offered daily outdoor exercise; this is unacceptable.

**The CPT recommends that steps be taken to develop the programme of activities offered at the Juvenile Educational Institution in Niš, in particular to juveniles accommodated in the "observation/shelter" rooms. All the juveniles must be offered the possibility of daily outdoor exercise (of at least two hours).**

150. The delegation was informed by the management of the Juvenile Educational Institution in Niš that the future of the vocational school was uncertain, as there were plans to close it down and transfer the building to the Ministry of Interior with the view to transforming it into a police station. It was not clear whether – and where – the juveniles would be able to continue receiving vocational training if these plans were to be implemented. **The Committee would like to receive more information on these plans.**

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<sup>105</sup> Ten boys were attending classes at the vocational school at the time of the visit.

## 5. Staff

151. At the time of the visit the Institution employed eight educators, a pedagogue, a psychologist, a social worker and a lawyer. In addition, there were teachers and work instructors employed by the vocational school. It could thus be said that the staffing level was on the whole adequate for the needs of the establishment.

## 6. Health care

152. The delegation was informed that, prior to admission, juveniles were taken to a local health care centre for a check-up. There were reportedly no problems of access to specialised services in outside hospitals.

Nevertheless, in the CPT's view the Juvenile Educational Institution in Niš would greatly benefit from the daily presence of a nurse, who could among others examine newly-arrived residents, ensure the confidentiality of medical documentation (which was not respected at the time of the visit), receive requests for medical assistance and administer prescription drugs. **The CPT recommends that steps be taken to ensure the daily presence of a nurse at the establishment.**

153. On the day of the delegation's visit, a 17-year old boy – reportedly suffering from mental health problems – was accommodated alone<sup>106</sup> in the “shelter”; he had already spent four months in such conditions. Admittedly, he could go for daily outdoor walks with an educator and was provided with something to read; he also had daily access to the internet.

However, the absence of a nurse limited the possibility of care for the juvenile concerned. This was acknowledged by the management and the staff of the establishment. After the boy had been placed at the Institution by decision of the CSW from Novi Sad, the management wrote to the CSW and the Ministry of Labour and Social Policy, arguing that the establishment was not well equipped to care for juveniles with mental problems; however, this argument was rejected by the Ministry, which considered that the boy's mental condition was not severe and that he could therefore be cared for at the Institution. It is noteworthy that he was given psycho-active medication (following the psychiatrist's prescription) by the educators.

In the CPT's view, the Juvenile Educational Institution in Niš is currently not an appropriate establishment for accommodating juveniles suffering from mental health problems, especially if for some reason such juveniles cannot be accommodated together with other residents; even if refurbished, the “shelter” would not offer living conditions adapted to such juveniles' needs. Other solutions should actively be sought, e.g. through the contact with an adolescent psychiatry ward and/or foster care authorities. **The Committee recommends that measures be taken in the light of these remarks.**

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<sup>106</sup> Both the juvenile concerned and the staff told the delegation that he wanted to be accommodated separately from other residents because he was afraid of them.

## 7. Other issues

154. With respect to contact with the outside world, juveniles could spend weekends and holidays with their families and there were no limitations on visits or phone calls.

155. As regards discipline, the Institution's House Rules contained a catalogue of disciplinary sanctions consisting essentially of withdrawal of a range of privileges. However, the delegation heard allegations that placement in the "observation/shelter" rooms (usually for a few hours but sometimes for up to a few days) was used as an informal disciplinary sanction. **If such an unacceptable practice were to exist, steps must be taken immediately to put a stop to it.**

156. One of the educators told the delegation that he had drafted an information sheet for the newly-arrived juveniles, setting out in an understandable manner their rights and obligations. This is a commendable initiative. **All juveniles arriving at the Educational Institution in Niš should receive a copy of the above-mentioned information sheet.**

157. As regards complaints, the delegation was informed by the Institution's management that the juveniles could only complain to the director or (in the case of those placed by court decision) to the competent court. There were thus apparently no possibilities to complain to any outside authority for the juveniles placed on social grounds (by decision of the CSW) as well as for the homeless/runaway juveniles and for unaccompanied aliens. **The Committee would like to receive clarification of this issue.**

158. The CPT attaches great importance to juvenile establishments being visited on a regular basis by an independent outside body which is responsible for the inspection of residents' care. This body should be authorised, in particular, to talk privately with the juveniles, and make any necessary recommendations to the authorities on ways to improve the care and conditions afforded to them. Visits by such a body - which could also be competent to receive complaints from juveniles or their families - would, in the Committee's view, constitute an important safeguard for juveniles in educational institutions.

The delegation was informed that inspections were being carried out at the Educational Institution in Niš by the Ministry of Labour and Social Policy. The Ombudsman was also empowered to visit the Institution but had apparently not done so yet. **The CPT invites the Serbian authorities to ensure regular visits to the Educational Institution for Juveniles in Niš – and to all other similar establishments in Serbia – by bodies which are independent of the Ministry of Labour and Social Policy, taking into account the above remarks.**



## **APPENDIX I**

### **List of the CPT's recommendations, comments and requests for information**

#### **Co-operation received**

##### recommendations

- the Serbian authorities at the highest political level to take decisive steps to improve, without further delay, the situation in the light of the Committee's recommendations, in accordance with the principle of co-operation which lies at the heart of the Convention (paragraph 6).

##### comments

- the CPT trusts that on future visits to Serbia, its delegations will be able to meet the most senior ranking officials responsible for matters falling within the Committee's mandate (paragraph 6).

#### **National Preventive Mechanism**

##### requests for information

- on the expected time-frame for the official designation of the Ombudsman as the National Preventive Mechanism pursuant to the OPCAT and on the resources to be allocated to his Office for the purpose of fulfilling this function (paragraph 10).

#### **Establishments under the authority of the Ministry of Interior**

##### **Preliminary remarks**

##### requests for information

- whether the four-hour period, during which a person can be questioned as a witness on the basis of a summons issued by the police (a procedure commonly referred to as "informative talks"), is included in the 48-hour period of police custody (paragraph 11);
- on the plans to renovate detention areas in police premises, including the timeframe for these works (paragraph 12).

## **Ill-treatment**

### recommendations

- police officers throughout Serbia to be reminded that all forms of ill-treatment (including verbal abuse) of persons deprived of their liberty are not acceptable and will be the subject of severe sanctions (paragraph 13);
- the Serbian authorities to take decisive steps to ensure that any non-standard objects are immediately removed from all police premises where persons may be held or questioned. Any items of evidence relating to cases under investigation should be appropriately labelled, recorded and kept in a designated property store (paragraph 15);
- the Serbian authorities to continue to develop professional training of police officers, with a view to ensuring that all new recruits receive adequate initial training and that police officers already in service are offered systematic ongoing training, related to human rights, professional ethics, conduct of interviews, handling of high-risk situations, etc. (paragraph 16);
- the Serbian authorities to take immediate steps to ensure that the record drawn up by prison health-care services following the medical examination of newly-arrived prisoners contain: (i) a full account of statements made by the person concerned which are relevant to the medical examination (including his description of his state of health and any allegations of ill-treatment), (ii) a full account of objective medical findings based on a thorough examination, and (iii) the doctor's conclusions in the light of (i) and (ii), indicating the degree of consistency between any allegations made and the objective medical findings. Whenever injuries are recorded which are consistent with allegations of ill-treatment made by a prisoner (or which, even in the absence of the allegations, are indicative of ill-treatment), the record should be systematically brought to the attention of the relevant prosecutor, regardless of the wishes of the person concerned. Further, the results of every examination, including the above-mentioned statements and the doctor's conclusions, should be made available to the prisoner and his lawyer. The same approach should be followed whenever a prisoner is brought back to prison by the police, after having participated in investigative activities (paragraph 18).

### requests for information

- information concerning investigations into the possible ill-treatment of the person detained at Palilula District Police Station in Belgrade on 26/27 December 2010 and subsequently taken to the Special Prison Hospital, with multiple injuries, on 27 December 2010 (paragraph 14);
- in respect of 2010 and the first half of 2011:
  - the number of complaints of ill-treatment made against law enforcement officials and the number of criminal/disciplinary proceedings which have been instituted as a result;
  - an account of criminal/disciplinary sanctions imposed following such complaints (paragraph 17).

## **Safeguards against the ill-treatment of persons deprived of their liberty**

### recommendations

- steps to be taken to ensure that detained persons are provided with feedback on whether it has been possible to notify a close relative or other person of the fact of their detention (paragraph 20);
- steps to be taken to ensure that the right of access to a lawyer applies effectively as from the very outset of the deprivation of liberty by the police. Anyone who is under a legal obligation to attend and stay at a police establishment (e.g. as a "witness") should also be expressly granted the right of access to a lawyer (paragraph 21);
- the Serbian authorities to step up their efforts to ensure that the system of legal aid for persons in police custody operates effectively; this should be done in co-operation with the relevant bar associations (paragraph 22);
- calls for medical assistance to be properly recorded in police establishments (paragraph 23);
- steps to be taken to ensure that persons apprehended by the police, on whatever grounds, are systematically provided with a standard and comprehensive information sheet, setting out in a straightforward manner all their rights (including the right of access to a doctor). The sheet should be made available in an appropriate range of languages (including the minority languages). Particular care should be taken to ensure that detained persons are actually able to understand their rights; it is incumbent on police officers to ascertain that this is the case (paragraph 24);
- steps to be taken to ensure that whenever a person is deprived of his liberty by the police, for whatever reason, this fact is duly recorded without delay. Further, the Serbian authorities should introduce, as a matter of priority, standard-format and comprehensive custody registers, to be kept at each police establishment and to contain information on all aspects of the person's custody and all the action taken in connection with it (paragraph 26);
- the Serbian authorities to develop a system for independent monitoring of police detention facilities. To be fully effective, monitoring visits should be both frequent and unannounced. Further, the monitoring bodies should be empowered to interview detained persons in private and examine all issues related to their treatment (material conditions of detention; custody records and other documentation; the exercise of detained persons' rights, etc.) (paragraph 27).

### requests for information

- comments of the Serbian authorities on the questionable practice (observed at Aleksinac Police Station) of informing persons detained pursuant to the Police Act only orally about their rights, not in writing (paragraph 25).

## **Conditions of detention**

### recommendations

- the Serbian authorities to step up their efforts to improve material conditions in police cells. More specifically, the following measures should be taken as a matter of priority:
  - ensure that all police cells where persons may be held overnight are of a reasonable size for their intended occupancy (i.e. 7 m<sup>2</sup> for single cells, and at least 4 m<sup>2</sup> per person in multi-occupancy cells);
  - improve in-cell lighting (i.e. sufficient artificial lighting to read by – sleeping periods excluded – and preferably access to natural light), ventilation and heating;
  - ensure that all cells used for overnight detention are equipped with a means of rest suitable for such stays (e.g. a bed or a sleeping platform), and that persons kept in custody overnight receive a clean mattress and blankets;
  - offer food, including at least one full meal, at appropriate intervals to detained persons, as provided for in Serbian regulations; this implies that police establishments should be allocated a specific budget for this purpose;
  - ensure that persons in police custody are allowed to comply with the needs of nature when necessary in clean and decent conditions, and that the toilet and washing facilities are in a good state of repair (paragraph 31);
- steps to be taken to ensure, as far as possible, that persons detained by the police for 24 hours or more are offered at least one hour of outdoor exercise per day (paragraph 31).

## **Establishments under the authority of the Ministry of Justice**

### **Preliminary remarks**

#### recommendations

- the Serbian authorities to redouble their efforts to combat prison overcrowding, in the light of the remarks set out in paragraphs 34 and 35 of the report. In so doing, the Serbian authorities should be guided by Recommendation Rec(99)22 of the Committee of Ministers of the Council of Europe concerning prison overcrowding and prison population inflation, Recommendation Rec(2000)22 on improving the implementation of the European rules on community sanctions and measures, Recommendation Rec(2003)22 on conditional release (parole) and Recommendation Rec(2006)13 on the use of remand in custody (paragraph 35);



- the Serbian authorities to step up their efforts to develop the programmes of activities for sentenced and remand prisoners. The aim should be to ensure that both categories of prisoner are able to spend a reasonable part of the day (eight hours or more) outside their cells, engaged in purposeful activities of a varied nature (work, education, vocational training, sport, etc) (paragraph 36).

#### comments

- in the context of the training provided to judges and prosecutors, efforts should be made to promote the use of alternatives to imprisonment (paragraph 35);
- greater use should be made of conditional release (paragraph 35).

#### requests for information

- the comments of the Serbian authorities on the apparent policy contradictions in relation to reducing prison overcrowding, highlighted in the penultimate sub-paragraph of paragraph 34 (paragraph 34);
- whether the Action Plan to implement the Strategy for Reducing Overcrowding in Institutions for Enforcement of Criminal Sanctions in the Republic of Serbia has been adopted and, in due course, a copy of that Action Plan (paragraph 34).

### **Ill-treatment**

#### recommendations

- the management of Požarevac-Zabela Correctional Institution to deliver a clear reminder to all the custodial staff that the ill-treatment of prisoners, in any form, is unacceptable and that anyone committing, aiding and abetting or tolerating such abuses will be severely punished. The establishment's management should demonstrate increased vigilance in this area by ensuring the regular presence of prison managers in the detention areas (including the high security unit), their direct contact with prisoners, the investigation of complaints made by prisoners, and improved staff training. Further, in the context of the prevention and investigation of ill-treatment, consideration should be given to more extensive CCTV coverage, coupled with secure recordings and an adequate policy of storage of the recorded data (paragraph 37);
- a similar reminder to be given to staff at Belgrade District Prison (paragraph 37);
- steps to be taken to ensure that medical staff at Požarevac-Zabela Correctional Institution are aware of their responsibilities in respect of the recording and reporting of injuries observed on prisoners (paragraph 38);

- the Serbian authorities to attach high priority to the timely completion of the investigation into the death of prisoner X. on 17 August 2005, and in so doing to take due account of the comments made by the CPT in paragraph 43 of the report on the 2007 visit (paragraph 39);
- steps to be taken without further delay to ensure that prison staff do not carry truncheons in a visible manner inside detention areas; if it is deemed necessary for staff to carry truncheons, they should be hidden from view (paragraph 40).

#### requests for information

- the outcome of the investigation into the complaint referred to in paragraph 37 (paragraph 37).

### **Conditions of detention**

- a. material conditions of detention

#### *follow-up visit to Belgrade District Prison*

#### recommendations

- the Serbian authorities to devise, as a matter of high priority, a comprehensive and fully budgeted refurbishment programme for Belgrade District Prison, with precise timetables. The aim of this programme should be, in particular, to remedy the current structural deficiencies of the prison's main detention building and ensure that all the cells benefit from adequate access to natural light, artificial lighting, ventilation and heating; cells should also be equipped with a call system and electrical sockets (paragraph 44);
- pending the comprehensive refurbishment of Belgrade District Prison, the Serbian authorities to take urgent steps in order to:
  - reduce significantly the occupancy level in the cells at the establishment, the objective being to comply with the standard of 4 m<sup>2</sup> of living space per prisoner in multi-occupancy cells;
  - ensure that each inmate has a bed;
  - refurbish the toilets (including the provision of a full partition), especially on the ground floor of the main facility;
  - supply all inmates with appropriate bedding (including pillows), which should be cleaned at regular intervals, and with a range of personal hygiene items and of products to clean their cells;
  - review the quality of the food provided to prisoners (paragraph 45).

comments

- the management of Belgrade District Prison – and of other penitentiary establishments in Serbia – is encouraged to provide, as far as possible, areas free from passive smoking (which is known to have negative consequences for health) to prisoners who request this (paragraph 46).

requests for information

- on the progress in the adoption and implementation of the refurbishment programme for Belgrade District Prison (paragraph 44);
- confirmation that the cell located in Block 3 of Belgrade District Prison, referred to in paragraph 41 of the report, has been taken out of use pending refurbishment (paragraph 45).

*follow-up visit to Požarevac-Zabela Correctional Institution*

recommendations

- steps to be taken at Požarevac-Zabela Correctional Institution in order to:
  - reduce the cell occupancy levels, the objective being to comply with the standard of 4 m<sup>2</sup> of living space per person in multi-occupancy cells;
  - continue the refurbishment of Pavilion VII and of the remand section, so as to remedy the deficiencies described in paragraphs 47 and 48 (including as regards heating, ventilation, toilets and showers); in this context, all in-cell sanitary facilities should be fully partitioned;
  - ensure that all prisoner accommodation areas are kept clean; this should include the provision to inmates of a range of personal hygiene items and products to clean their cells;
  - ensure that bedsheets and blankets are regularly washed (paragraph 51).

comments

- the number of beds in the cell for persons detained pursuant to the Law on Misdemeanours should be reduced, taking into account the standard of 4 m<sup>2</sup> of living space per detainee (paragraph 49).

*Požarevac Correctional Institution for Women*

recommendations

- steps to be taken at Požarevac Correctional Institution for Women to reduce the cell occupancy levels, the objective being to comply with the standard of 4 m<sup>2</sup> of living space per person in multi-occupancy cells. Moreover, efforts to refurbish the detention areas, especially in the closed regime Section 1, should be pursued (paragraph 52).

requests for information

- the timeframe for the refurbishment of the closed regime Section 1 at Požarevac Correctional Institution for Women (paragraph 52).

b. activities

recommendations

- the Serbian authorities to take urgent measures at Belgrade District Prison, and where necessary at other penitentiary establishments, to ensure that all juvenile prisoners are offered educational, vocational and recreational activities taking into account the specific needs of their age group. Physical education should be part of that programme (paragraph 57);
- the Serbian authorities to ensure that all prisoners in the penitentiary establishments visited, as well as in other prisons in Serbia, are offered at least one hour of outdoor exercise per day (paragraph 57);
- the exercise yards at Belgrade District Prison to be equipped with a shelter against inclement weather (paragraph 57);
- the Serbian authorities to make efforts to offer pre-release courses to prisoners as they approach the end of their sentence both at Požarevac Correctional Institution for Women and in all other prisons, taking into consideration Rule 103.4 of the revised European Prison Rules (paragraph 57).

comments

- the Serbian authorities are encouraged to implement in practice the legal standard of two hours of daily outdoor exercise (paragraph 57).

requests for information

- comments of the Serbian authorities on the complaints received at Belgrade District Prison about the lack of access to a religious representative and the absence of a facility for communal liturgies (paragraph 58).

c. classification of prisoners

comments

- the Serbian authorities are invited to strive to implement in practice the system of classification and individualised sentence plans of prisoners in Serbia, taking into consideration the remarks in paragraph 60 of the report (paragraph 60).

requests for information

- comments on the complaints received from inmates about the lack of information and transparency as regards the prisoner classification system (paragraph 59).

**Special Department of Požarevac-Zabela Correctional Institution**

recommendations

- the regime applied to inmates placed in the Special Department of Požarevac-Zabela Correctional Institution to be fundamentally changed; individual plans should be developed – and appropriate activities put in place – aimed at providing appropriate mental and physical stimulation to prisoners (paragraph 63);
- the exercise yards of the Special Department to be equipped with a means of rest and some protection against inclement weather (paragraph 63);
- the Serbian authorities to review the placement policy applied to inmates in the Special Department of Požarevac-Zabela Correctional Institution, in the light of the remarks in paragraph 65. In particular, the review of the placement in the Special Department should take place on a more frequent (preferably quarterly) basis (paragraph 65).

comments

- the CPT is of the opinion that routinely handcuffing and body belting inmates within a secure area is not acceptable. Security measures applied to inmates should be based on an individual risk assessment and reviewed at regular intervals (paragraph 64).

## **Health-care services in the prisons visited**

### recommendations

- the Serbian authorities to substantially increase the number of qualified nurses at Belgrade District Prison and Požarevac-Zabela Correctional Institution as a matter of priority (paragraph 68);
- steps to be taken to:
  - recruit more general practitioners at both Belgrade District Prison and Požarevac-Zabela Correctional Institution;
  - increase the presence of a dentist at both of the above-mentioned establishments and ensure that the dental surgery at Požarevac-Zabela Correctional Institution meets the recognised health care standards;
  - refurbish the main health care unit at Požarevac-Zabela Correctional Institution and, in the meantime, ensure that the modern medical equipment at the Special Department of the establishment is made available in emergency cases to the rest of the inmates of the Institution;
  - provide the in-patient facility at the Požarevac Correctional Institution for Women with basic life saving equipment (paragraph 68);
- the distribution of medicines at Belgrade District Prison and Požarevac-Zabela Correctional Institution to be performed exclusively by qualified health-care staff (paragraph 69);
- steps to be taken to ensure the supply of appropriate medication in sufficient quantities to all establishments under the authority of the Ministry of Justice (paragraph 69);
- the Serbian authorities to reinforce the provision of psychiatric care and psychological support to prisoners, with particular attention being paid to the needs of prisoners serving long sentences (paragraph 70);
- the Serbian authorities to develop a comprehensive strategy for the provision of assistance to prisoners with drug-related problems, in the light of the remarks in paragraph 71 (paragraph 71);
- steps to be taken to address the problem of delays in transferring inmates for treatment to outside hospital facilities and in arranging visits by outside medical specialists (paragraph 72);

- steps to be taken to ensure strict adherence to the rule that all prisoners must be seen by a health-care staff member within 24 hours of their arrival, as specified in the Law on the Execution of Criminal Sanctions (LECS). The medical examination on admission should be comprehensive, including appropriate screening for transmissible diseases. The same approach should be followed whenever a prisoner is medically examined following a violent episode in prison (paragraph 73);
- the Serbian authorities to take steps to ensure the confidentiality of prisoners' medical examinations, in line with the considerations set out in paragraph 74. If necessary, the law should be amended accordingly (paragraph 74);
- steps to be taken to improve the medical record-keeping at Belgrade District Prison and Požarevac-Zabela Correctional Institution, in the light of the remarks in paragraph 75 (paragraph 75);
- prison management and prison doctors to be systematically provided with the conclusions of autopsy reports (or at least information on the cause of death) concerning prisoners who died in prison or in an outside hospital after having been transferred from their establishments (paragraph 76);
- the Serbian authorities to ensure that the Ministry of Health becomes more actively involved in the quality control of prison healthcare (including as regards the recruitment of health-care staff, their in-service training, evaluation of malpractice, certification and inspection), with a view to ensuring respect of the principle of equivalence of care and taking into account the specific health needs of the prison population (paragraph 77).

#### requests for information

- whether autopsies are systematically performed when an inmate dies in prison or after having been transferred to an outside hospital (paragraph 76).

#### **Follow-up visit to the Special Prison Hospital in Belgrade**

#### recommendations

- further efforts to be made to combat the phenomenon of inter-patient violence at the Special Prison Hospital in Belgrade; this will require bringing the hospital's population down to its official capacity and, as needed, increasing the nursing staff levels and presence (paragraph 79);
- custodial staff to be instructed not to enter the patients' living areas unless requested by the health-care staff, and not to carry truncheons in a visible manner while present inside the above-mentioned areas (paragraph 80);

- the procedures for the selection of custodial staff and their initial and ongoing training to be reviewed, taking into account the principles set out in paragraph 82 of the report on the 2007 visit (paragraph 80);
- the Serbian authorities to remedy the deficiencies with respect to the use of means of restraint referred to in paragraph 81. In particular, clearly defined written instructions on the use of means of restraint at the Special Prison Hospital in Belgrade should be issued without further delay (paragraph 81);
- the Serbian authorities to attach the highest priority to the continuation of the refurbishment of the Special Prison Hospital in Belgrade, and to finding ways to significantly reduce the level of overcrowding at the establishment (paragraph 82);
- urgent steps to be taken to address the problem of hygiene in patients' accommodation areas (paragraph 82);
- the practice observed in some wards of patients wearing pyjamas the whole day to be abolished (paragraph 83);
- steps to be taken without further delay to ensure that all patients whose medical condition so allows are offered the possibility to take outdoor exercise for two hours every day, in accordance with the relevant legislation (paragraph 84);
- the outdoor exercise yard at the Special Prison Hospital in Belgrade to be equipped with a means of rest and a shelter against inclement weather (paragraph 84);
- efforts to be made to develop the range of rehabilitative psycho-social activities for psychiatric patients at the Special Prison Hospital in Belgrade; occupational therapy should be an integral part of the rehabilitation programme (paragraph 85);
- an individual treatment plan to be drawn up for each psychiatric patient, including the goals of the treatment, the therapeutic means to be used and the staff members responsible. Patients should be involved in the drafting of their individual treatment plans and the evaluation of their progress (paragraph 85);
- the Serbian authorities to increase their efforts to improve staffing levels and the time of presence of health-care staff at the Special Prison Hospital in Belgrade (paragraph 87);
- nurses working with psychiatric patients to be provided with training reflecting the specialised nature of their work (paragraph 87);
- the Serbian authorities to take decisive steps to implement without further delay the recommendations made in the report on the 2007 visit concerning the legal safeguards for patients undergoing compulsory psychiatric treatment at the Special Prison Hospital (paragraph 88);
- the management of the Special Prison Hospital in Belgrade to ensure that patients are provided with written information on their rights and that they are effectively able to send confidential complaints to outside bodies (paragraph 88);



- the Serbian authorities to take energetic and effective measures, inter alia by setting up appropriate structures in the outside community, to enable the release of psychiatric patients in respect of whom there are no medical grounds for continuing hospitalisation (paragraph 89);
- the solitary confinement cells on the ground floor of the Special Prison Hospital to be taken out of service, pending refurbishment (paragraph 90).

#### comments

- the prolonged periods of fixation observed at the Special Prison Hospital can have no medical justification (paragraph 81);
- as regards patients undergoing compulsory drug treatment and patients suffering from tuberculosis, the comments and recommendations in paragraphs 89 and 91 of the report on the 2007 visit remain fully applicable (paragraph 86).

#### requests for information

- whether the Rule Book for the staff working in the Special Prison Hospital has now been adopted, and the text of the Rule Book (paragraph 80).

#### **Other issues of relevance for the CPT's mandate**

- a. prison staff

#### recommendations

- the Serbian authorities to take steps to increase staffing levels and further improve the training for custodial staff in prisons, in the light of the remarks made in paragraph 92 (paragraph 92).

- b. contact with the outside world

#### recommendations

- the Serbian authorities to amend the law and the relevant regulations so as to ensure that granting visits to remand prisoners is the norm, the refusal of visits the exception. Further, visits by prisoners' lawyers should not be subject to an authorisation requirement, nor to limitations as regards their duration and frequency (paragraph 93);

- any prohibition of phone calls in respect of a given remand prisoner to be specifically substantiated by the needs of the investigation, require the approval of a body unconnected with the case at hand, and be applied for a specified period of time, with reasons stated. Further, the decision concerning prohibition should be made available to the prisoner concerned and his lawyer. Telephone calls to a remand prisoner's lawyer should never be prohibited. The relevant legislation and regulations should be amended accordingly (paragraph 94);
- all sentenced inmates, regardless of the regime to which they are subject, to be entitled to a visit of at least one hour every week. Further, prisoners whose families live far away from the prison should be allowed to accumulate any unused visiting periods. The relevant legislation and regulations should be amended accordingly (paragraph 95);
- the Serbian authorities to review the visiting arrangements for inmates placed in the Special Department of Požarevac-Zabela Correctional Institution; in particular, the possibility of having open visits should be introduced, subject to an individual risk assessment (paragraph 96).

#### comments

- the objective should be to offer to remand prisoners a visit every week, of a duration of at least one hour (paragraph 93).

#### c. discipline/solitary confinement

#### recommendations

- the existing regulations and practice concerning the role of prison doctors in relation to disciplinary matters to be reviewed. In so doing, regard should be had to the revised European Prison Rules and the comments made by the CPT in paragraph 53 of its 15<sup>th</sup> General Report (CPT/Inf (2005) 17) (paragraph 99);
- steps to be taken to amend the relevant legislation so that disciplinary punishment of prisoners does not involve a total prohibition of family contacts, and that any restrictions on family contacts are imposed only where the offence relates to such contact (paragraph 100).

#### comments

- in the context of the disciplinary procedure, the Serbian authorities are invited to grant prisoners the possibility of legal representation which is independent from the establishment concerned (paragraph 101).

d. “coercive means”

comments

- urgent steps are required to remedy the situation described in paragraph 102 of the report, as regards the practice of fixating prisoners at the Požarevac Correctional Institution for Women (paragraph 102);
- means of restraint ("coercive means") should rarely need to be applied for more than a few hours, unless there is a medical condition requiring this. The latter cases should be fully under the control of a doctor called upon to assess the need for restraint and not to certify fitness for restraint. Means of restraint should be removed at the earliest opportunity; they should never be applied, or their application prolonged, as a punishment (paragraph 102).

e. complaints and inspection procedures

requests for information

- comments of the Serbian authorities on the fact that the visiting judge at Belgrade District Prison did not enter the prisoner accommodation areas and did not hold confidential interviews with the inmates (paragraph 104);
- the reasons for the lack of progress in setting up the Parliamentary Committee referred to in Section 278 of the LECS (paragraph 104).

**Establishments under the authority of the Ministry of Health**

**Preliminary remarks**

recommendations

- the Serbian authorities to attach the highest priority to further implementation of the Strategy and Action Plan for the Development of Mental Health Care, with a particular emphasis on the deinstitutionalisation process (paragraph 106);
- the Serbian authorities to find a solution to the current situation at Dr Laza Lazarević Psychiatric Hospital that would reconcile the patients' right to daily outdoor exercise and the hospital's security-related concerns; one way of achieving this could be to set up a suitably secure exercise area on the hospital grounds, to be used by involuntary patients considered as presenting a high escape risk (paragraph 108).

### **Ill-treatment**

#### recommendations

- all nurses and auxiliary staff at the Special Psychiatric Hospital in Gornja Toponica to be reminded that any form of ill-treatment of patients is not acceptable and will be the subject of severe sanctions (paragraph 109);
- steps to be taken to ensure that staff at the Special Psychiatric Hospital in Gornja Toponica protect patients from other patients who might cause them harm. This requires not only adequate staff presence and supervision at all times, but also that staff be properly trained in handling challenging situations/patients (paragraph 110).

### **Patients' living conditions**

#### recommendations

- steps to be taken at the Special Psychiatric Hospital in Gornja Toponica in order to:
  - continue the refurbishment programme, with a particular focus on the male long-term ward (MOPD); in the context of this refurbishment, the possibility of transforming large-capacity dormitories into smaller structures should be considered;
  - reduce the occupancy levels in the dormitories;
  - offer a more congenial and personalised environment to all the patients, in particular by providing them with lockable space and allowing a reasonable number of personal belongings;
  - allow all patients to wear as far as possible their own clothes during their stay (paragraph 114);
- the Serbian authorities to take measures to ensure that patients accommodated in the old age psychiatry wards of the Special Psychiatric Hospital in Gornja Toponica are not subjected to inappropriate interaction with patients of the opposite sex. In particular, patients of each gender should have their own protected bedrooms and sanitary areas (paragraph 115).

## **Treatment and regime**

### recommendations

- efforts to be made to expand the range of therapeutic options at the Special Psychiatric Hospital in Gornja Toponica and involve more patients in psycho-social rehabilitative activities, preparing them for a more autonomous life or return to their families; occupational therapy should be an important part of a patient's long-term treatment programme, providing for motivation, development of learning and relationship skills, acquisition of specific competences and improving self-image (paragraph 119);
- an individual treatment plan to be drawn up for each patient at the Special Psychiatric Hospital in Gornja Toponica (taking into account the special needs of acute, long-term and forensic patients including, with respect to the last-mentioned, the need to reduce the risk of their reoffending), comprising the goals of the treatment, the therapeutic means used and the staff members responsible. Patients should be informed of their individual treatment plans and progress; further, they should be involved in the drafting and implementation of these plans (paragraph 119).

### comments

- the Serbian authorities are invited to make efforts to involve more patients at the Special Psychiatric Hospital in Gornja Toponica in recreational activities adapted to their needs (paragraph 119).

### requests for information

- confirmation that the refurbished somatic ward at the Special Psychiatric Hospital in Gornja Toponica has been reopened (paragraph 121).

## **Staff**

### recommendations

- the Serbian authorities to take steps at the Special Psychiatric Hospital in Gornja Toponica to:
  - increase the number and presence of nurses and auxiliary staff on the wards;
  - reinforce substantially the team of specialists qualified to provide psycho-social rehabilitative activities (psychologists, occupational therapists, social workers, etc.); (paragraph 123);
- specialised training – both initial and ongoing – to be developed in Serbia for nurses working with psychiatric patients (paragraph 123);
- the potentially intimidating practice referred to in paragraph 124 to be stopped immediately (paragraph 124).

## **Means of restraint**

### recommendations

- the practices observed in both hospitals visited, consisting of patients being restrained in full view of (and in areas easily accessible to) other patients, without continuous and direct monitoring by the staff, to be discontinued without delay; mechanical restraints should not be applied to a patient in the sight of other patients, unless he/she explicitly requests otherwise or when the patient is known to have a preference for company, and it is safe. Further, there must be continuous, direct and personal supervision by nearby staff during the restraint measure. Special vigilance should be exercised when applying mechanical restraints to physically ill patients because of the much higher risk of complications (paragraph 129);
- the Serbian authorities to adopt, without further delay, a policy/instructions for the use of means of restraint (paragraph 130).

## **Safeguards**

### recommendations

- steps to be taken to adopt the new Mental Health Act and relevant subordinate legislation without further delay (paragraph 131);
- efforts to be made to ensure that – in the context of the involuntary hospitalisation procedure – courts take decisions expeditiously, in particular as regards persons admitted against their will to the Specialised Psychiatric Hospital in Gornja Toponica (paragraph 132);
- involuntary psychiatric patients in Serbia should be systematically informed of the recommendations of the psychiatric commissions and the court decisions (and be given copies of these documents), as well as of the legal remedies available to challenge them (paragraph 132);
- steps to be taken to ensure that:
  - involuntary patients have effective access to legal assistance (independent of the admitting hospital), if necessary free of charge;
  - continuation of the initial involuntary placement requires the opinion of an independent psychiatrist (paragraph 132);
- steps to be taken to ensure that psychiatric patients (and if they are legally incompetent, also their guardians) are provided with full, clear and accurate information before consenting to treatment (including on the possibility to withdraw their consent), both at the time of hospitalisation and prior to any treatment in the course of hospitalisation. Relevant information should also be provided to patients (and their guardians) during and following the treatment (paragraph 133);

- measures to be taken to improve the procedure in relation to any transformation of a patient's legal status from involuntary to voluntary and *vice versa* (paragraph 135);
- steps to be taken in the hospitals visited – as well as in all other psychiatric establishments in Serbia – to ensure that the legal situation of all patients is fully clarified (paragraph 136);
- a brochure setting out the hospital's routine and patients' rights, including information about complaints bodies and procedures, to be drawn up and systematically provided to patients and their families on admission to all psychiatric establishments in Serbia. Any patients unable to understand such a brochure should receive appropriate assistance (paragraph 137);
- steps to be taken to offer the patients at Dr Laza Lazarević Special Psychiatric Hospital in Belgrade the possibility to make and receive telephone calls, and to improve such possibilities for patients at the Gornja Toponica Hospital (paragraph 138);
- steps to be taken at the Special Psychiatric Hospital in Gornja Toponica and at Dr Laza Lazarević Special Psychiatric Hospital to set up appropriate facilities in which patients can meet their relatives and friends (paragraph 138);
- measures to be taken to ensure that patients in all psychiatric establishments in Serbia are effectively in a position to send confidential complaints to outside authorities (paragraph 139);
- steps to be taken to ensure that psychiatric establishments are visited on a regular basis by independent outside bodies responsible for the inspection of patients' care (paragraph 139);
- the approach of carrying out an autopsy when a patient in a psychiatric hospital dies, unless a medical authority independent of the hospital decides that an autopsy is unnecessary, to be adopted and rigorously applied in all psychiatric establishments in Serbia. More generally, the Serbian authorities to institute a practice of carrying out a thorough inquiry into every death of a psychiatric patient, in particular with a view to ascertaining whether there are lessons to be learned as regards operating procedures (paragraph 141).

#### comments

- consent to hospitalisation and consent to treatment are two distinct issues and patients should be requested to express their position on both of these issues separately (paragraph 133).

#### requests for information

- whether the positive practice of user involvement at the Special Psychiatric Hospital in Gornja Toponica, as described at paragraph 140, has been extended to other psychiatric hospitals in Serbia (paragraph 140).

## **Juvenile Educational Institution in Niš**

### **Preliminary remarks**

#### requests for information

- comments of the Serbian authorities on the complex situation in which the Juvenile Educational Institution in Niš was operating, involving three different Ministries (Labour and Social Policy, Justice and Interior) and several legal acts (paragraph 143);
- the precise legal basis for the detention of unaccompanied foreign juveniles at the Juvenile Educational Institution in Niš (paragraph 143);
- detailed information on the procedures applied in respect of juveniles admitted to the Educational Institution in Niš pursuant to social protection legislation, in particular as regards placement, review and discharge, applicable time-limits, availability of legal assistance and guardianship (paragraph 144).

### **Ill-treatment**

#### recommendations

- the management and staff of the Educational Institution for Juveniles in Niš to exercise increased vigilance to prevent incidents of inter-resident violence and to react appropriately if and when such incidents occur (paragraph 145).

### **Living conditions**

#### recommendations

- the deficiencies as regards conditions in the two “observation/shelter” rooms to be corrected as a matter of priority (paragraph 147).

#### comments

- the Serbian authorities are invited to pursue the refurbishment programme at the Juvenile Educational Institution in Niš (paragraph 146);

#### requests for information

- details of the plans to provide special accommodation for unaccompanied aliens at the Juvenile Educational Institution in Niš (paragraph 149).



## **Treatment and activities**

### recommendations

- steps to be taken to develop the programme of activities offered at the Juvenile Educational Institution in Niš, in particular to juveniles accommodated in the “observation/shelter” rooms. All the juveniles must be offered the possibility of daily outdoor exercise (of at least two hours) (paragraph 149).

### requests for information

- information on the future of the vocational school and on whether – and where – the juveniles would be able to continue receiving vocational training if the school closed down (paragraph 150).

## **Health care**

### recommendations

- steps to be taken to ensure the daily presence of a nurse at the Juvenile Educational Institution in Niš (paragraph 152);
- measures to be taken to avoid the accommodation in the Niš Institution of juveniles suffering from mental health problems (paragraph 153).

## **Other issues**

### recommendations

- if the practice of placement in the “observation/shelter” rooms as an informal disciplinary sanction exists, steps to be taken immediately to put a stop to it (paragraph 155).
- all juveniles arriving at the Educational Institution in Niš to receive a copy of the information sheet setting out their rights and obligations (paragraph 156).

### comments

- the Serbian authorities are invited to ensure regular visits to the Educational Institution for Juveniles in Niš – and to all other similar establishments in Serbia – by bodies which are independent of the Ministry of Labour and Social Policy, taking into account the remarks in paragraph 158 (paragraph 158).

requests for information

- whether juveniles placed on social grounds (by decision of the Centre for Social Work), as well as homeless/runaway juveniles and unaccompanied aliens placed in the Institution, have the possibility to make complaints to an outside authority (paragraph 157).

## **APPENDIX II**

### **List of the national authorities and organisations met by the CPT's delegation**

#### **A. National authorities**

##### **Ministry of Human and Minority Rights**

Mr Svetozar ČIPLIĆ	Minister
Ms Sanja JASAREVIĆ-KUZIĆ	Deputy Minister
Mr Vladimir ŠOĆ	Advisor

##### **Ministry of Interior**

Mr Dragan MARKOVIĆ	State Secretary
Ms Jasmina SAHINOVIĆ	Minister's Private Office, Bureau for International Co-operation and EU Integration
Mr Nebojša PANTELIĆ	President of the Commission for Monitoring of Compliance with the CPT's Recommendations
Mr Dragoljub RADOVIĆ	Sector of Internal Control
Mr Siniša SPANOVIĆ	Sector of Internal Control
Ms Olivera ZECEVIĆ	Department of Criminal Investigation
Mr Dejan ZIVALJEVIĆ	Deputy Head of Police Directorate
Mr Zoran GOLUBOVIĆ	Police Directorate
Mr Nikola VUKŠANOVIĆ	Police Directorate

##### **Ministry of Justice**

Ms Aleksandra STEPANOVIĆ	Head of the Department for Improvement and Protection of Rights of Persons Deprived of Liberty
Mr Miodrag ANDJELKOVIĆ	Co-ordinator for Health Protection
Mr Milan OBRADOVIĆ	Head of the Administration for Implementation of Criminal Penalties
Mr Damir JOKA	Head of the Centre for Training and Professional Improvement of the Staff of the Administration for Implementation of Criminal Penalties

##### **Ministry of Health**

Mr Periša SIMONOVIĆ	State Secretary
Ms Nataša GUDOVIĆ	Senior Advisor

**Ministry of Labour and Social Policy**

Ms Suzana PAUNOVIĆ  
Ms Slobodanka RADOJKO  
Ms Biljana ŽEKAVICA

Deputy Minister  
Inspector for Social Care  
Inspector for Social Care

**Office of the Prosecutor General**

Ms Gordana JANJIJEVIĆ  
Ms Tamara MIROVIĆ  
Mr Ljubomir PRELIĆ

Deputy Prosecutor General  
Deputy Prosecutor General  
Deputy Prosecutor General

**Office of the Protector of Citizens**

Mr Saša JANKOVIĆ  
Mr Miloš JANKOVIĆ

Protector of Citizens  
Deputy Protector for the Protection of the Rights of  
Persons Deprived of their Liberty

**B. Non-governmental organisations**

Belgrade Centre for Human Rights  
Human Rights Centre, Niš  
Lawyers' Committee for Human Rights  
Serbian Helsinki Committee

**C. International organisations**

OSCE Mission to Serbia

### APPENDIX III

#### **Paragraphs 89, 91, 94, 95 and 134 to 145 of the report on the CPT's periodic visit to Serbia in 2007 (CPT/Inf (2009) 1)**

89. The CPT welcomes the recent initiative of opening a “drug-free” unit at the Special Prison Hospital. At the time of the visit, the unit was accommodating 17 patients. In exchange for accepting the obligation not to take any drugs for at least 6 months prior to admission to the unit and subsequently, and to submit themselves to random urine checks, patients from this unit benefited from additional activities (group therapy, art therapy, paid work, language lessons, fitness sessions) and certain “privileges” (e.g. a more generous visit and parcel entitlement, access to a telephone inside the ward). That said, **efforts are still required to develop the treatment programme for the remaining majority of patients with drug or alcohol addiction problems.**

91. The CPT's delegation was pleased note that patients suffering from TB (7 at the time of the visit) were accommodated separately from others [at the Special Prison Hospital] and provided with a treatment following the DOTS method<sup>107</sup>. However, living conditions in their room were as poor as in the rest of the non-renovated wards. **The CPT recommends that this deficiency be remedied.**

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94. As regards the legal safeguards for forensic psychiatric patients, the procedure for compulsory hospitalisation of persons found to be criminally irresponsible is set out in the CCP. Compulsory hospitalisation takes place upon a court decision on the basis of a forensic psychiatric assessment. The delegation was informed that the court could invite a patient to attend the court hearing (hearings never took place in the hospital) and that his/her lawyer's presence in court was obligatory. Patients or their lawyers were informed of the court's decision and of their right to appeal against it within 15 days; however, the patient did not receive a copy of the court decision (it was sent to the hospital and kept in the patient's file). **The CPT recommends that the existing legislation be amended so as to ensure that patients and their lawyers receive a written copy of the court decision on compulsory hospitalisation.**

95. The CPT is concerned by the fact that, under the present legislation, compulsory psychiatric hospitalisation is of an indeterminate duration, and there is no mechanism for periodic court review of such decisions. As explained to the delegation by doctors at the Special Prison Hospital, a motion to the court to revise the hospitalisation measure could be introduced by the hospital (based on the opinion of the hospital's internal commission composed of three psychiatrists, a psychologist and a social worker), the Centre for Social Work or a prosecutor (in the two latter cases, the court would request the hospital to provide its opinion); there was no external medical expertise involved, and neither the patient nor his lawyer could initiate the review procedure.

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<sup>107</sup>

“Directly Observed Treatment, Short-course”, the WHO-recommended TB control strategy.

**The CPT recommends that measures be taken to subject all compulsory placements of criminally irresponsible patients to an automatic court review at reasonable intervals (e.g. every six months). The patient and/or his lawyer should be allowed to be present during the review hearing.**

**Further, the patient and his lawyer should have access to the deliberations and recommendation of the Hospital's internal commission, and be allowed to request an examination by an outside psychiatric expert. In addition, the patient himself should be able to request at reasonable intervals that the necessity for placement be considered by a judicial authority.**

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134. As regards the legal safeguards for patients subjected to civil involuntary hospitalisation, the observations made by the CPT's delegation during the 2007 visit suggest that the situation remains unsatisfactory. This is to a large extent due to a lack of a comprehensive and coherent legal framework for involuntary civil hospitalisation, despite the entry into force of the new Law on Health Care (LHC) in December 2005. The management of the Kovin hospital attempted to fill certain lacunas of the current legislation by issuing instructions and introducing internal procedures and forms; however, this could not entirely remedy the current state of legal uncertainty.

The LHC foresees that a special law should be adopted to regulate in a more detailed manner the procedure of involuntary hospitalisation and the "organization and conditions of treatment of mental patients in hospital-type institutions". In their response to the report on the CPT's 2004 visit<sup>108</sup>, the Serbian authorities indicated that the National Mental Health Committee had prepared a draft Law on Mental Health. However, during the meeting with representatives of the Ministry of Health, the delegation was told that a decision had been taken to suspend the consideration of this draft pending the adoption of necessary draft by-laws and for as long as the necessary financial resources for the implementation of the new law are not secured. **The CPT would like to be informed about the prospects of adoption of the new Law on Mental Health.**

135. As regards the *initial placement procedure*, the delegation was informed at the Specialised Neuro-Psychiatric Hospital in Kovin that persons brought to the establishment who refused to give their consent to hospitalisation (see paragraph 137) would be seen, in principle at the latest on the next morning, by members of the hospital's internal medical commission<sup>109</sup>. If the commission concluded that continued hospitalisation was necessary, the hospital had to notify, at the latest within 48 hours from the moment of admission, the competent court. Reportedly, the local court in Kovin usually took approximately a week to issue its decision on involuntary hospitalisation and to transmit it to the hospital. There was no practice of inviting the patient to attend the court hearing, the decision being based on the recommendation of the hospital's medical commission; further, no independent medical expertise was involved.

The examination of individual patients' files at the hospital revealed that, in practice, the hospital's internal medical commission saw newly-arrived patients only twice a week, and the local

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<sup>108</sup> CPT/Inf (2006) 19.

<sup>109</sup> Composed of two psychiatrists from the ward to which the patient has been admitted, and third psychiatrist from another ward.

court in Kovin could take as long as a month to transmit its decision to the hospital. It is also noteworthy that patients were usually not informed of the recommendations of the psychiatric commission, the court decisions and the legal remedies available.

**The CPT recommends that steps be taken to ensure that the time-limits foreseen for the initial placement procedure in respect of involuntary civil psychiatric patients are duly respected at the Specialised Neuro-Psychiatric Hospital in Kovin.**

**Further, steps should be taken to ensure that psychiatric patients have the effective right to be heard in person by the judge during the involuntary placement procedure. Patients should be systematically informed of the recommendation of the psychiatric commission and the court decision (and be given a copy of these documents), as well as of the legal remedies available to challenge them. The initial placement procedure should also involve the opinion of an independent psychiatrist.**

136. As regards the *criteria justifying involuntary hospitalisation*, Section 44 of the LHC stipulates that the nature of the patient's mental condition must be such that "it may threaten the patient's life or the life of other persons or property". Doctors at the Kovin hospital expressed the view that these criteria were too vague. In particular, it was not clear whether the threat had to be imminent and whether the person had to suffer from a psychosis. **The CPT recommends that the Serbian authorities ensure that the criteria justifying involuntary hospitalisation are spelt out more clearly.**

137. *Consent to hospitalisation* was in principle sought in respect of all patients upon admission to the Hospital in Kovin. The management had taken the initiative of introducing standard consent forms on admission. However, the forms in use were drafted in such a way as to give a blanket consent to both admission and any subsequent diagnostic and treatment measures<sup>110</sup>. Further, written proof of consent was missing in several individual patients' files examined by the delegation.

Moreover, many patients stated that they had been told by staff to sign the form, without receiving an explanation of its meaning. In addition, a few patients alleged that staff had told them that if they refused to write such a statement, their case would "go to court" and they would stay at the hospital longer ("3 years instead of 3 months"). **The CPT recommends that steps be taken to ensure that psychiatric patients are provided with full, clear and accurate information before signing a consent to hospitalisation (including on the possibility to withdraw their consent), and that they are not subjected to pressure in this context.**

In a few cases, the delegation has noted that the consent form had been signed by patients, despite the fact that they were legally incompetent. There was no written trace in the files that the patients' legal guardians had consented to their hospitalisation. In view of the patients' legal status, their consent had no legal value; thus, from the legal point of view, they were involuntary and the relevant procedure for involuntary hospitalisation should have been initiated for them.

**The CPT recommends that instructions be issued to the staff at the Kovin Hospital to systematically verify the legal competence of patients upon admission, and to take appropriate steps in consequence.**

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<sup>110</sup> They contained the following sentence: "I accept all diagnostic and therapeutic measures that will be applied to me".

138. Psychiatric patients should, as a matter of principle, be placed in a position to give their free and informed *consent to treatment*. The admission of a person to a psychiatric establishment on an involuntary basis should not be construed as authorising treatment without his consent. Every competent patient, whether voluntary or involuntary, should be given the opportunity to refuse treatment or any other medical intervention. Any derogation from this fundamental principle should be based upon law and only relate to clearly and strictly defined exceptional circumstances.

In practice, the management and doctors at the Kovin Hospital considered that consent to hospitalisation equalled consent to treatment (see paragraph 137). Further, patients' medical files examined by the delegation generally did not contain information indicating that patients had been informed of their mental condition and had consented to treatment. It is noteworthy that a number of patients were unaware of their diagnosis and the treatment they were receiving.

**The CPT recommends that all patients (and, if they are incompetent, their legal representatives) be provided systematically with information about their condition and the treatment prescribed for them, and that doctors be instructed that they should always seek the patient's consent to treatment prior to its commencement. This could be done by means of a special form of informed consent to treatment, signed by the patient or (if he is incompetent) by his legal representative. Relevant information should also be provided to patients (and their legal representatives) during and following treatment.**

139. At the time of the visit, no bio-medical *research projects* were carried out at the Specialised Neuro-Psychiatric Hospital in Kovin. However, such projects were not excluded in the future, and the hospital's director expressed the view that a patient who could give consent to admission could also give consent to participating in research. The CPT cannot agree with this point of view. A patient may be in a condition permitting him to give consent to admission, while not being in a position to understand the consequences of participating in research. **The Committee would like to receive the comments of the Serbian authorities on this subject.**

140. As regards *discharge procedures*, the delegation examined the files of patients who were formally considered as involuntary at the Specialised Neuro-Psychiatric Hospital in Kovin, and found that court decisions concerning the placement of these patients had been issued for a determined period (as a rule, the first placement was for 3 months, and subsequent decisions issued for 6 months). In its decisions, the court required the hospital to submit a report on the patient's progress within a month before the expiry of the placement measure.

It can thus be concluded that there is in practice a mechanism for a court review of involuntary hospitalisation at regular intervals. However, **the recommendation made in paragraph 135 concerning procedural safeguards for patients in the context of the admission procedure (right to be heard in person by the judge; systematic information about the recommendation of the psychiatric commission and the court decision; information on legal remedies; access to independent psychiatric expertise) is equally applicable in the context of the review of involuntary hospitalisation decisions.**



141. Patients placed against their will in psychiatric establishments should have access to legal assistance, free of charge if necessary. At the Specialised Neuro-Psychiatric Hospital in Kovin, the delegation was informed that the establishment's legal officer could also act as the patients' lawyer. However, the lawyer had no right to represent patients in procedures before the judicial or administrative bodies, and could not initiate procedures to defend patients' legal interests. **The CPT recommends that steps be taken to ensure that involuntary psychiatric patients have effective access to legal assistance (independent of the admitting hospital), if necessary free of charge.**

142. The CPT considers that a brochure setting out the establishment's routine and patients' rights – including information about complaints bodies and procedures – should be issued to each patient, as well as to their families, on admission to the establishment. Any patients unable to understand this brochure should receive appropriate assistance.

The delegation noted that some written information on patients' rights was posted in the wards' corridors at Kovin hospital. However, no information brochure was provided to patients or to their families on admission. **The CPT recommends that such a brochure be drawn up and systematically provided to patients and their families on admission to the Specialised Neuro-Psychiatric Hospital in Kovin and to all other psychiatric establishments in Serbia.**

143. In respect of contact with the outside world, there were no limitations on patients' visits from relatives. However, the establishment did not possess special facilities for visits; as a result, patients met their relatives in the wards' corridors or common rooms. Patients were allowed to send and receive letters without restrictions. Further, they had in principle access to a telephone; that said, there was only one pay phone for the whole hospital and, in the alcoholism ward, only incoming calls were possible. **The CPT recommends that steps be taken at the Specialised Neuro-Psychiatric Hospital in Kovin to set up appropriate facilities in which patients can meet their relatives. Further, the Committee invites the Serbian authorities to make efforts to improve the possibilities for patients at Kovin Hospital to make telephone calls.**

144. An effective complaints procedure is another basic safeguard against ill-treatment in psychiatric establishments. Specific arrangements should exist, enabling patients to lodge formal complaints with a clearly-designated body, and to communicate on a confidential basis with an appropriate authority outside the establishment.

Patients at the Kovin Hospital could lodge complaints with a number of outside bodies, in particular courts and the Ombudsman. That said, it was in practice very difficult to send directly (i.e. other than through one's relatives) a complaint in a confidential manner.

**The CPT recommends that measures be taken to ensure that patients at the Specialised Neuro-Psychiatric Hospital in Kovin – as well as in all other psychiatric establishments in Serbia – are effectively in a position to send confidential complaints to outside authorities.**

145. The CPT also attaches considerable importance to psychiatric establishments being visited on a regular basis by an independent outside body which is responsible for the inspection of patients' care. Kovin Hospital had received visits from various NGOs and could be visited by the Ombudsman, but there was no system of regular outside inspections. Consequently, **the CPT recommends that steps be taken to ensure that the Specialised Neuro-Psychiatric Hospital in Kovin (and all other psychiatric establishments in Serbia) are visited on a regular basis by independent outside bodies responsible for the inspection of patients' care. These bodies should be authorised, in particular, to talk privately with patients, receive directly any complaints which they might have and make any necessary recommendations. Further, the management of all psychiatric establishments should be duly informed of the results of any inspections carried out on their premises.**