

**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 19 to 29 November 2007**

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 \(2009\) 2](#).

Strasbourg, 14 January 2009

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

**Ms Sladjana PRICA**

Plenipotentiary

Ambassador Extraordinary and

Permanent Representative of Serbia  
to the Council of Europe  
26 a, avenue de la Forêt Noire  
67000 STRASBOURG

Strasbourg, 11 April 2008

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 19 to 29 November 2007. The report was adopted by the CPT at its 65<sup>th</sup> meeting, held from 3 to 7 March 2008.

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.

The CPT would ask, in the event of the response being forwarded in the Serbian language, that it be accompanied by an English or French translation. It would also be most helpful if the Serbian authorities could provide a copy of the response in a computer-readable form.

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

Yours faithfully,

Mauro PALMA  
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 19 to 29 November 2007. The visit formed part of the Committee’s programme of periodic visits for 2007, and was the second 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:

- Mauro PALMA, President of the CPT (Head of delegation)
- Pétur HAUKSSON
- Ann-Marie ORLER
- Vladimir ORTAKOV
- Jørgen Worsaae RASMUSSEN

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

- Borys WÓDZ
- Isabelle SERVOZ-GALLUCCI.

They were assisted by:

- Dan DERMENGIU, Professor, Head of Forensic Medicine, "Carol Davila" Medical Faculty, Bucharest, Romania (expert)
- Antonio MARCHESI, Associate Professor at the Faculty of Law, University of Teramo, Italy (expert)
- Danica KRALJEVIĆ (interpreter)
- Ksenija NIKČEVIĆ (interpreter)
- Spomenka NINČIĆ-ŠOĆ (interpreter)
- Biljana OBRADOVIĆ-VUJNOVIĆ (interpreter)
- Zorica SAVIĆ-NENADOVIĆ (interpreter).

## **B. Establishments visited**

3. The delegation visited the following places of detention:

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

- Metropolitan Police Headquarters, Belgrade (follow-up visit)
- Vračar Police Station, Belgrade (follow-up visit)
- Bor District Police Unit
- Indija Police Station
- Kovin Police Station
- Negotin Police Station
- Petrovac-na-Mlavi Police Station
- Ruma Police Station
- Smederevo District Police Unit
- Sremska Mitrovica District Police Unit
- Zaječar District Police Unit

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

- Belgrade District Prison (follow-up visit)
- Požarevac-Zabela Correctional Institution
- Sremska Mitrovica Correctional Institution (follow-up visit)
- Special Prison Hospital, Belgrade (follow-up visit)

The delegation also went to Negotin District Prison in order to interview persons who had recently been in police custody.

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

- Specialised Neuro-Psychiatric Hospital, Kovin

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

- Special Institution for Children and Juveniles, Stamnica.

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

4. In the course of the visit, the CPT's delegation held consultations with Dušan PETROVIĆ, Minister of Justice, Tomica MILOSAVLJEVIĆ, Minister of Health, Rasim LJALIĆ, Minister of Labour and Social Welfare, Ljubinko NIKOLIĆ, Assistant to the Minister of Interior, and Gordana STOJANOVIĆ, Deputy Republican Public Prosecutor, as well as with senior officials from relevant Ministries, the Agency of Human and Minority Rights and the Security and Information Agency. It also met Saša JANKOVIĆ, the Serbian Ombudsman, and held discussions with members of non-governmental and international organisations active in areas of concern to the CPT.

A list of the national authorities and organisations 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, Dragan KNEŽEVIĆ, Adviser at the Agency for Human and Minority Rights of the Government of the Republic of Serbia.

5. As regards the co-operation received during the visit from the Serbian authorities, both at the central level and locally, it should be stressed that the CPT's delegation had in all cases rapid access to the detained persons it wished to interview and, with one notable exception, could enter without undue delay all the premises where such persons might be held.

The above-mentioned exception concerned the Metropolitan Police Headquarters in Belgrade, which the delegation visited on Thursday 22 November 2007. In the course of the visit, the delegation was refused access to the offices in which persons could be interviewed by police inspectors from the criminal police department. It was clear that the officers on duty in the department concerned were unaware of the CPT's mandate and powers. In the light of this, a letter was sent to the Minister of Interior, stating that the above-mentioned refusal of access amounted to a violation of Article 8, paragraph 2.c., of the Convention and a failure to co-operate within the meaning of Article 3. The delegation was able to work without any further obstacles when it returned to the above-mentioned establishment on 28 November 2007.

In this context, it should also be noted that, despite the delegation's repeated requests, its members were not provided with official credentials from the Ministry of Interior, explaining their mandate and powers to the police. The events at the Metropolitan Police Headquarters in Belgrade illustrate that it would have been useful for the delegation to have been issued with such credentials.

**The CPT requests the Serbian authorities to ensure that, in the future, information on the CPT's mandate and powers is disseminated to all the authorities**



**and staff concerned, and that visiting delegations are supplied on time with credentials which spell out this information.**

6. It should also be noted that, at Požarevac-Zabela Correctional Institution, repeated attempts were made by the management and staff to mislead the delegation, in particular by denying the recent use of the cells located in the basement of Pavilion VII. Further, staff tried to alter the information in the register of the use of “coercive means” in respect of the past years. Such deceitful behaviour amounts to a serious breach of the principle of co-operation.

**The Committee requests the Serbian authorities to take all necessary measures to prevent any repetition of acts of this kind during future CPT visits.**

Moreover, the delegation gained the clear impression that many prisoners at the above-mentioned Pavilion and in the remand section were unable to speak freely because they had been warned by staff against making any complaints and feared repercussions. In this context, the CPT wishes to stress that **any kind of intimidating or retaliatory action against a person before or after he/she has spoken to a delegation of the Committee would be totally incompatible with the obligations of Parties to the Convention.**

7. The CPT wishes to underline that the principle of co-operation between States Parties and the Committee is not limited to steps taken to facilitate the task of a visiting delegation. It also requires that decisive action be taken to improve the situation in the light of the CPT’s recommendations. The Committee is concerned to note that no action has been taken in respect of a number of important recommendations made by the CPT after the 2004 visit, particularly as regards penitentiary establishments. The Committee trusts that the Serbian authorities will now improve the situation in the light of the CPT’s recommendations, in accordance with the principle of co-operation which lies at the heart of the Convention.

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

8. At the end of the visit, the CPT’s delegation met senior 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, in respect of the Special Institution for Children and Juveniles in Stamnica. Indeed, the CPT’s delegation was very concerned by the conditions in which residents in this establishment were obliged to live.

The delegation requested the Serbian authorities to provide the Committee, within 3 months, with a detailed action plan, comprising precise deadlines and financial resources, to reduce significantly the population of the Institution in Stamnica (so as to

ensure, as a strict minimum, that every resident has his own bed), increase the number of care staff working in direct contact with residents and enlarge the offer of therapeutic activities, in particular for the residents in the establishment's "upper zone" (accommodating mostly long-term residents).

9. Further, the CPT's delegation requested the Serbian authorities to provide, within one month, detailed information on the programme for the continuation of the refurbishment of the Special Prison Hospital in Belgrade, including a timetable for its completion and financial resources allocated.

In addition, the delegation requested a copy of the file concerning X., a prisoner who died on 17 July 2005 during his transfer from Požarevac-Zabela Correctional Institution to the Special Prison Hospital in Belgrade, including the full autopsy report and detailed information on the criminal inquiry into his death. Finally, the delegation requested information on the investigation carried out into the cause of death, on 4 July 2007, of the prisoner Y. at Belgrade District Prison, including the full autopsy report.

10. The above-mentioned immediate observation and requests for information were subsequently confirmed in a letter of 17 December 2007.

By letters of 11 January and 7 March 2008, the Serbian authorities provided the information requested and informed the CPT of measures taken in response to the delegation's immediate observation as well as in respect of other remarks contained in the end-of-visit statement. These measures will be assessed later in the report.

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

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

#### 1. Preliminary remarks

11. Since the CPT's first visit to Serbia in 2004, a number of new legislative acts have been adopted<sup>[2]</sup>. Nevertheless, due to the delayed entry into force of the new Code of Criminal Procedure (CCP)<sup>[3]</sup>, at the time of the 2007 visit, the rules governing the detention of persons by the law enforcement agencies continued to be basically the same as those described in the report on the 2004 visit. It should be recalled that police custody of persons suspected of having committed a criminal offence is limited to a maximum of 48 hours; within that period, detainees have to be either brought before an investigating judge or released. The police must immediately, and at the latest within a term of 2 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 4 hours of its receipt (Section 229 of the CCP).

Further, the police have the right to summon persons for questioning as witnesses for up to 4 hours. If, in the course of questioning, it appears likely that the person will be declared a suspect, the investigating judge can grant the police an additional 8 hours of detention for the purpose of gathering evidence (Section 226 of the CCP). Police officers with whom the delegation spoke during the 2007 visit provided contradictory opinions as to whether the above-mentioned periods of 4 and 8 hours were included in the 48-hour period by which a detained person has to be brought before an investigating judge. **The CPT would like to receive clarification of this question.**

Pursuant to the new Law on the Police (LP), the police may detain persons disturbing public order for a maximum period of 24 hours (Section 53 of the LP); the person concerned is entitled to appeal against his/her detention to the district court.

It should be stressed that the delegation did not observe any violations of the legal time-limits for police custody; on the contrary, it would appear that, in practice, most detained persons remain in the custody of the police for much shorter periods (i.e. up to 12 hours).

12. The CPT welcomes the efforts made by the Serbian authorities, with the assistance of the international community, to bring the legislative framework for deprivation of liberty by law enforcement agencies into full conformity with international standards. However, at the time of the 2007 visit, the situation remained somewhat unclear, *inter alia* due to the delay in the entry into force of the new CCP and the parallel existence of several – sometimes contradictory – legal acts<sup>[4]</sup>. This was to be remedied by the time the new CCP became applicable; in the meantime, law enforcement officials faced difficult situations in their daily work. **The CPT recommends that the Serbian authorities finalise as soon as possible the reform of the legislative framework for deprivation of liberty by law enforcement agencies. All law enforcement officials should be given appropriate training on the new laws and their practical implications.**

## 2. Ill-treatment

13. The number of allegations of ill-treatment by the police heard by the CPT's delegation in the course of the 2007 visit was lower, and the ill-treatment alleged less severe, than during the Committee's first periodic visit in 2004.

That said, the delegation did receive a number of allegations of physical ill-treatment (consisting of punches, kicks, truncheon blows, blows with a thick book or with a wet rolled newspaper, and handcuffing to fixed objects in a hyperextended position) during questioning by criminal police officers, in order to obtain confessions or other information. It would appear that juveniles suspected of serious criminal offences are particularly exposed to physical violence. Further, the delegation received some accounts of verbal abuse and threats during questioning.

In addition, a small number of allegations was received concerning the disproportionate use of force (e.g. punches, kicks and truncheon blows) at the time of apprehension, after the person concerned had been brought under control.

14. Most of the allegations of ill-treatment related to periods some time before the delegation's visit; consequently, any injuries which might have been caused by the ill-treatment alleged would almost certainly have healed in the meantime. Nevertheless, in several cases the delegation's doctors observed physical marks or found medical evidence in the documentation consulted at the penitentiary establishments visited which were consistent with allegations of police ill-treatment.

By way of illustration, reference can be made to the following case: a juvenile remand prisoner interviewed by the delegation at Belgrade District Prison alleged having been punched on his left ear at the time of his apprehension (in April 2007) and subsequently slapped, punched and kicked during questioning at a police station in

Belgrade, while being handcuffed to a radiator and a table in a hyperextended position. The ill-treatment alleged had apparently stopped after he signed a confession.

Consultation of the juvenile's medical file revealed the presence of two medical certificates. The first one, signed by a doctor from the emergency ward of the Clinical Centre of Serbia (Belgrade) on 16 April 2007, contained the following diagnosis: "*contusion capitis et faciei*" (contusion on head and face), as well as a recommendation for an additional examination at an ENT (otorhinolaryngology) ward. The second certificate, signed on the same day by a doctor from the ENT ward, contained the following diagnosis: "*haematoma periorbitalis sin.; contusio regionis zygomatici et regionis buccae; rupture membranae tympany sin. suspect.*" (haematoma around left eye; contusion in the regions of cheekbones and cheeks; suspected rupture of left eardrum membrane). These medical findings are consistent with the juvenile's allegations of ill-treatment.

15. It should also be noted that, in several police stations visited (e.g. in Bor, Indija, Kovin, Petrovac-na-Mlavi, Negotin and Ruma), the delegation again found – in offices used for police interviews – various non-standard issue items (such as baseball bats, iron rods, wooden sticks, thick metal cables, etc). **The CPT reiterates its recommendation that any non-standard issue objects be immediately removed from all police premises where persons may be held or questioned. Any such items seized during criminal investigations should be entered in a separate register, properly labelled (identifying the case to which they refer) and kept in a dedicated store.**

16. Since the 2004 visit, the Serbian authorities have taken certain measures to combat ill-treatment by law enforcement officials. Among others, the new Criminal Code<sup>[5]</sup> contains Sections 137 (ill-treatment and torture) and 136 (use of force or threats in order to extort a confession or another statement from an accused, a witness, an expert witness or other person), which foresee a punishment of imprisonment for 3 months to 10 years, according to the gravity of the facts and to whether or not the offence was committed by a public official in the exercise of his/her authority<sup>[6]</sup>.

In addition, instructions have been adopted by the Ministry of Interior to ensure that police staff strictly observe the relevant legislation and regulations when dealing with persons in custody. Important efforts have also been made to step up professional training in order to improve the attitude of police officers towards detained persons. That said, the new training curriculum (which seeks to link theoretical courses on human rights with practical training in the handling of high-risk situations, such as the apprehension and interrogation of suspects) is being offered to newly-recruited police officers, while those already in service do not benefit from it. **The CPT recommends that police officers already in service receive systematic ongoing training based on the new curriculum.**

The CPT welcomes the legislative and other measures taken to combat ill-treatment. However, in the light of the information gathered during the visit, it is clear

that **continued determined action is needed to combat ill-treatment by the police; in particular, all allegations or other indications of physical ill-treatment by law enforcement officials must be duly investigated and, if appropriate, the officials concerned punished accordingly**<sup>[7]</sup>.

17. As already stressed in the report on the 2004 visit, diligent examination by the competent authorities of all complaints of ill-treatment by police officers and, where appropriate, the imposition of a suitable penalty represents an important means of preventing such treatment.

During the 2007 visit, the Serbian authorities informed the Committee that a new police complaints mechanism had been introduced in 2006 pursuant to Section 180 of the LP<sup>[8]</sup>. Complaints are now subjected to a two-stage review: (i) initial examination by the head of the police unit in which the officer against whom the complaint is lodged works, and (ii) if the complainant does not agree with the decision, as well as in all cases where there are grounds to suspect a criminal offence, review by a Ministry of Interior Complaints Committee. The latter Committee is chaired by a senior police officer appointed by the Minister, and includes an officer from the Internal Affairs Division of the Police and a representative of the public<sup>[9]</sup>. The Commission must reach a decision within 30 days from the moment the complaint was lodged, and the complainant can appeal the decision to the district court. The new procedure incorporates some important procedural safeguards, such as the right for the complainant to be represented by a lawyer, to have access to the file and to request a forensic medical examination.

The adoption of the new police complaints procedure is a positive development, capable of contributing towards the prevention of ill-treatment of persons detained by the police. That said, **it is important to ensure that all persons entrusted with carrying out investigative acts concerning complaints against the police are not from the same service as those who are the subject of the investigation. Ideally, those entrusted with the operational conduct of the investigation should be completely independent of the agency implicated.**

18. At the outset of the visit, the Serbian authorities provided the delegation with information on complaints concerning ill-treatment by the police and sanctions applied as a result. In the period between January and October 2007, the Internal Affairs Division of the Police had notified the prosecuting authorities of 391 suspected criminal offences committed by 451 police officers, including 21 cases of torture and ill-treatment, and 80 cases of abuse of authority. During the same period, 1,815 disciplinary measures had been adopted against police officers for serious breaches of duty (including torture and ill-treatment).

The delegation was also provided with statistical information on the same subject by the Deputy Republican Public Prosecutor. However, the figures provided concerned a different period<sup>[10]</sup>, which made it impossible to compare them with those from the Ministry of Interior.

In order to obtain a clear picture of the situation, **the CPT would like the Serbian authorities to supply the following information in respect of 2007 and the first half of 2008:**

- **the number of complaints of torture and other forms of ill-treatment made against police officers (with indication of the authority to which the complaints were made);**
- **the number of disciplinary and criminal proceedings (pursuant to Sections 136 and 137 of the Criminal Code) which were instituted as a result of these complaints;**
- **an account of the outcome of these proceedings, including disciplinary and criminal sanctions imposed.**

The compilation of statistical information is not an end in itself; if properly collected and analysed, it can provide signals about trends and assist in the taking of policy decisions. Increased co-ordination between the Ministry of Interior and the Republican Prosecutor's Office is clearly needed in this respect. **The CPT invites the Serbian authorities to introduce a uniform nationwide system for the compilation of statistical information on complaints, disciplinary sanctions, and criminal proceedings/sanctions against law enforcement officials.**

19. As stressed by the CPT in the report on its first visit to Serbia, it is axiomatic that judges must take appropriate action when there are indications that ill-treatment by the police may have occurred. In this connection, it should be noted that some persons interviewed during the 2007 visit alleged that the investigating judges before whom they had been brought with a view to being remanded in custody ignored their complaints of police misconduct. Consequently, **the CPT reiterates its recommendation on this subject made in paragraph 40 of the report on its 2004 visit<sup>111</sup>. If necessary, the relevant legislation should be amended accordingly.**

20. The role played by prison health-care services in the prevention of ill-treatment has already been emphasised by the CPT in the report on the 2004 visit (see paragraph 91 of CPT/Inf (2006) 18). The observations made during the 2007 visit suggest that the procedure as regards the recording of injuries observed on newly-arrived remand prisoners and their reporting leaves much to be desired. The examination of the prisoners' medical files revealed that injuries were often described in a superficial manner, without any statements by the prisoners concerning their origin, and without the doctor's conclusion on the consistency of the injuries with these statements.

Further, despite declarations to the contrary made by staff in the prisons visited, information about the identity of police officers involved in the alleged ill-treatment and



the establishments where they worked was never recorded. Moreover, injuries observed on prisoners were not systematically reported to the relevant prosecutor. It is also noteworthy that registers of traumatic injuries were not kept in any of the prisons visited except at Sremska Mitrovica Correctional Institution<sup>[12]</sup>.

**The CPT reiterates its recommendation that the record drawn up following the medical examination of newly-arrived remand 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, the record should be systematically brought to the attention of the relevant prosecutor. Further, the results of every examination, including the above-mentioned statements and the doctor's conclusions, should be made available to the remand 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**

21. In the report on the 2004 visit, the CPT examined in detail the formal safeguards against ill-treatment which are offered to persons detained by the police, and their operation in practice. The Committee has placed particular emphasis on three fundamental rights, namely 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. As stressed by the Committee, these rights should be enjoyed by all categories of persons from the very outset of their deprivation of liberty (i.e. from the moment the persons concerned are obliged to remain with the police). It is equally fundamental that persons detained by the police be informed without delay of their rights, including those mentioned above, in a language they understand.

There have been no changes in the legal provisions concerning the above-mentioned safeguards since the 2004 visit. Consequently, the CPT maintains its conclusion that the situation in Serbia is relatively favourable in this respect<sup>[13]</sup>; however, the existing legislation continues to display some shortcomings, and its implementation in practice leaves a lot to be desired. This can be at least partly explained by the situation of "legislative flux".



22. As regards notification of custody, according to Article 27 (3) of the Constitution, “a person deprived of his liberty [...] shall be informed promptly in a language they understand about [...] his right to inform without delay a person of his choice about his arrest or detention”. This principle is reiterated in Section 5 (5) of the CCP in force and Section 52 of the LP. Most of the persons with whom the delegation spoke confirmed that they had been offered the possibility to notify their next-of-kin of their detention shortly after apprehension; that said, at Bor District Police Unit, the delegation was told by a criminal police officer that the notification would normally only be done through a person’s lawyer. **The CPT would like to receive clarification of this point from the Serbian authorities.**

23. The right of persons deprived of their liberty by the police to have access to a lawyer is guaranteed in Articles 33 and 67 of the Constitution, as well as in Section 5 (2) of the CCP in force. The right of access to a lawyer includes the right to have him present during questioning and to meet him in private. Persons detained by the police on public order grounds, as well as those detained pursuant to aliens legislation, also benefit from the above-mentioned right. All proceedings (except in emergency) must be stopped until the lawyer arrives, but for no longer than 2 hours (Section 54 (3) of the LP).

However, the current legislation fails to mention the exact time when the right of access to a lawyer becomes effective. This lacuna is partially addressed in the new CCP<sup>[14]</sup>; that said, the new provision does not make clear that the right of access to a lawyer applies as from the very outset of deprivation of liberty (i.e. as from the moment the persons concerned are first 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” (although police officers with whom the delegation spoke indicated that a witness would be allowed to come with his lawyer if he so wished).

In practice, many of the persons interviewed by the delegation confirmed that they had been offered the possibility of contacting a lawyer shortly after apprehension. In most of the case files examined by the delegation there was a mention that the lawyer had been present during police questioning, which was confirmed by the lawyer’s signature. However, a number of persons, in particular juveniles, alleged that they had only been able to meet a lawyer after they had signed a statement or confession. **The CPT recommends that the Serbian authorities take steps to ensure that the right of access to a lawyer for persons deprived of their liberty by the police applies effectively as from the very outset of their deprivation of liberty. Anyone who is under a legal obligation to attend and stay at a police establishment (e.g. as a "witness") should also be granted the right of access to a lawyer.**

24. A number of detained persons who had benefited from the services of *ex officio* lawyers complained about the quality of their work; in particular, the lawyers apparently

met their clients only in court, very briefly. A few persons also alleged that a choice of a particular lawyer had been imposed on them by the police from the list of *ex officio* lawyers provided by the bar association.

**The Committee recommends that further efforts be made 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.**

25. Concerning the right of access to a doctor, the provisions in force at the time of the 2007 visit granted a right to request a medical examination only to criminal suspects brought before an investigating judge (Section 228 (7) of the CCP in force); thus, there were still no provisions giving such a right to persons as from the moment of their apprehension by the police. Further, there was no express right for a person detained by the police to be examined by a doctor of his/her own choice. Section 7 (8) of the new CCP stipulates that a person in police custody can “request to be examined at any time, at his expense, and without any delay by a physician of his choice, or if unavailable, a physician to be selected by the detention authority”; **the CPT would like to receive confirmation that such a request must be immediately granted.**

26. The delegation was informed by officers in the police establishments visited that the police did not hesitate to call an ambulance if a detained person visibly needed medical assistance. Further, in some of the establishments (e.g. in Smederevo), there was a practice of automatically calling a doctor each time someone was detained (the delegation saw copies of medical certificates confirming this fact). At Negotin and Zaječar, the police called a doctor each time a person had visible injuries; this fact was registered in the station logbook and a copy of the medical certificate was appended to the person’s case file. By contrast, persons apprehended by the police in Belgrade were generally seen by a doctor only upon their admission to Belgrade District Prison; a number of remand prisoners interviewed by the delegation claimed that they had been refused access to a doctor while in police custody.

**The CPT calls upon the Serbian authorities to issue specific instructions with a view to ensuring that a person taken into police custody has, as from the outset of his deprivation of liberty, an effective right to be examined by a doctor (it being understood that an examination by a doctor of the detained person’s own choice may be carried out at his own expense). The Committee also reiterates its recommendations<sup>[15]</sup> about the confidentiality of such medical examinations, the content of the record to be made by the doctor following the examination, and the availability of the record for the detained person and his/her lawyer.**

27. Information on rights continued to be provided orally to detained persons upon their arrival to a police establishment. A mention of this fact was made on the provisional detention decision and the detainee was asked to acknowledge it with his/her signature.

However, a copy of this decision was not always provided to the person concerned, despite the requirement in Section 31 (3) of the Rules on Police Powers (stipulating that this be done within 6 hours from the moment of apprehension). Further, the list of rights mentioned on the decisions seen by the delegation was incomplete: decisions in respect of criminal suspects did not contain an express mention of the right to notify a third person of one's situation (although there was usually a statement indicating that the detainee had requested that such a notification be done), while decisions to detain a person pursuant to the LP (i.e. on public order grounds) usually did not mention the right to a lawyer. Further, no mention was ever made of the possibility of having access to a doctor.

On a more positive note, reference should be made to the initiative taken locally at Zaječar District Police Unit to offer all detained persons the possibility to sign a "questionnaire" enumerating *inter alia* the three rights referred to in paragraph 21.

Some of the persons interviewed by the delegation alleged that they had only been informed of their rights by the investigating judge. Further, a few persons complained that they had received misleading information, e.g. that they could not benefit from free legal assistance. In addition, despite a clear obligation set out in Section 54 (2) of the LP, no written information on rights was available in any language other than Serbian.

**The CPT reiterates its recommendation that the Serbian authorities issue a form setting out in a straightforward manner the rights of persons deprived of their liberty by the police (including the right of access to a doctor) and to ensure that the form is systematically given to such persons as from the outset of their deprivation of liberty (i.e. as from the moment the persons concerned are first obliged to remain with the police). 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. The form should be made available in an appropriate range of languages.**

28. The CPT is also concerned by the safeguards concerning the use of summons directing persons to present themselves on police premises to provide information necessary for performing police tasks (a procedure commonly referred to as "informative talks")<sup>[16]</sup>. Some persons met by the delegation complained that they had been summoned to a police station and engaged in such "talks" for several hours, without being allowed to contact a lawyer.

In the Committee's view, the procedure of "informative talks" should be abolished and the relevant legislation amended accordingly. Further, the current practice appears to be in contradiction with Section 52 of the LP (as well as Section 18 of the Rules on Police Powers), which stipulates that the police must inform persons summoned for "informative talks" about their rights to notify a third person of this fact and to benefit from the assistance of a lawyer. The CPT would like to receive the comments of the Serbian authorities on this issue.

29. In the course of the 2007 visit, the delegation paid particular attention to the situation of juveniles in police custody. Section 38 of the LP contains an obligation for the police to immediately inform a parent or guardian of the apprehension of a juvenile. The law also provides for the obligatory presence of a parent, guardian, representative of social services or lawyer while a juvenile is being questioned. Further, only specially trained police officers are allowed to interview juveniles. However, a number of juveniles with whom the delegation spoke alleged that they had been interviewed alone without the presence of their parents and/or lawyers (whom they were apparently allowed to see only after having signed statements). **The CPT recommends that steps be taken to ensure that juveniles do not make any statements or sign any documents related to the offence of which they are suspected without the benefit of a lawyer and/or a trusted person being present and assisting the juvenile.**

Further, the delegation examined several cases of juveniles who had been held at the Metropolitan Police Headquarters in Belgrade and had been interviewed by inspectors from the criminal police department, without the knowledge of their colleagues from the department of juvenile police. The explanation provided to the delegation was that, due to the seriousness of the cases in question, they had been handled by the criminal police, but a specific inspector – who had worked in the past in the juvenile department – had carried out the interviews. **The CPT would like to receive the comments of the Serbian authorities on this issue.**

30. The delegation spoke with a number of remand prisoners of foreign nationality, who complained that they had not been provided with an interpreter while in police custody, and had been made to sign documents they did not understand. **The CPT recommends that steps be taken to ensure that all persons deprived of their liberty by the police, who do not understand Serbian, are promptly provided with the services of an interpreter and, in particular, are not requested to sign any statements or other documents before the interpreter's services are provided.**

31. The situation observed in the police establishments visited as regards the keeping of custody records remained far from satisfactory, despite the adoption of new provisions on this subject<sup>171</sup>. The only properly maintained records were seen at Vračar Police Station in Belgrade. In other police establishments, the registers available concerned exclusively persons detained pursuant to the LP (i.e. on public order grounds). As for the documentation of custody of persons apprehended pursuant to the CCP, it was either inexistent (the delegation was told that such data would be in individual files or in the remand prisons to which the persons were sent) or incomplete (e.g. information on the date and time of release, and on the establishment to which the person had been transferred, was missing).

**The CPT reiterates its recommendation that steps be taken to ensure that whenever a person is deprived of his liberty by a law enforcement agency, for whatever reason, this fact is duly recorded without delay. Further, the Committee recommends that standard-format and comprehensive custody registers be kept at each police establishment, containing information on all aspects of the person's custody and all the action taken in connection with it.**

32. Despite the existence of a number of bodies entitled to visit places where persons are detained by the police (e.g. judges, prosecutors, the newly-appointed Ombudsman<sup>[18]</sup>), it transpired during the 2007 visit that there was still no effective monitoring by independent outside bodies<sup>[19]</sup>.

**The CPT recommends that the Serbian authorities take steps 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.)**

33. The CPT's delegation noted that remand prisoners were frequently returned to police establishments for further questioning. Further, the fact that a remand prisoner had been taken back to a police establishment was poorly recorded, both at remand prisons and in the police establishments visited. The Committee wishes to stress that, in principle, further questioning by police officers of persons committed to a remand prison should take place in prison rather than on police premises. **The CPT recommends that the return of remand prisoners to police custody - for whatever purpose - be only sought when it is absolutely unavoidable and be subject to the authorisation of the relevant prosecutor/judge. Further, the transfer of remand prisoners to and from police establishments should be duly recorded.**

#### **4. Conditions of detention**

34. 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 received reports that persons placed in police custody in Belgrade had recently spent up to 48 hours in one or more of the city's police stations.

35. Material conditions in the police detention facilities visited by the delegation were generally not suitable for holding persons for more than a few hours, and certainly not overnight. Most of the cells were small (e.g. 4.5 m<sup>2</sup> at Bor, less than 5 m<sup>2</sup> at Negotin) and occasionally very small (e.g. less than 2 m<sup>2</sup> at Zaječar, some 3 m<sup>2</sup> at Indija). The cells had

no or hardly any access to natural light. Artificial lighting was very poor in the cells seen at Indija, Negotin, Petrovac-na-Mlavi, Ruma and Vračar (Belgrade), and ventilation was a problem at all the previously mentioned establishments, as well as at the Metropolitan Police Headquarters in Belgrade. Further, with the exception of the cell at Kovin Police Station, none of the police cells was properly heated, the worst situation being witnessed at Negotin, where the cell was completely unheated<sup>[20]</sup>.

The equipment of the cells consisted of a concrete or wooden platform (e.g. in Bor, Negotin, Petrovac-na-Mlavi and Vračar) or a bench (e.g. at Municipal Police Headquarters in Belgrade, in Kovin and Zaječar); mattresses were not provided for the night and blankets were only seen at Bor, Indija and Ruma. The toilets and washing facilities, located either inside the cells or in the corridors, were generally in a poor state of repair; that said, the delegation did not hear any complaints from persons detained about access to the toilet and washing facilities. Further, there were no formal arrangements for the provision of food to detained persons in any of the police facilities visited<sup>[21]</sup>.

36. The Serbian authorities are well aware of the existing shortcomings of police detention facilities and, as an emergency measure, have recently taken a decision not to use them for periods exceeding 24 hours<sup>[22]</sup>. Further, an assessment of police establishments was carried out between March and December 2006 by a joint committee composed of representatives of the Ministry of Interior and the OSCE Mission to Serbia. The committee presented its final report in May 2007, with recommendations of steps to be taken. At the time of the visit, a more detailed action plan was being drafted.

**The CPT recommends that the Serbian authorities step up their efforts to improve material conditions in police cells. More specifically, the following measures should be included in the above-mentioned action plan and implemented 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. at least 6 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. access to natural light and artificial lighting), 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; this implies that police establishments should be allocated a specific budget for this purpose;**
- **ensure that the toilet and washing facilities are in a good state of repair.**

**As regards the very small cells at Indija Police Station and at Zaječar District Police Unit, the CPT recommends that they be taken out of service.** By virtue of their size alone, they are unfit for use as overnight accommodation (and, in the case of the cell at Zaječar, for detention of any length of time).

Similarly, **the Committee recommends that the cell at Negotin Police Station (referred to in paragraph 35) be taken out of service until such time as it is equipped with a proper heating system.**

37. Material conditions in the cell seen at Sremska Mitrovica District Police Unit call for no particular comment. However, the delegation noted that the cell was located behind the staircase at the end of a narrow long corridor, and that the only way to the cell

led through a low door (approximately 160 cm high). This could be potentially dangerous, especially in view of the fact that the establishment was sometimes used to hold intoxicated persons. **The CPT invites the Serbian authorities to address these shortcomings.**



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

### **1. Preliminary remarks**

38. Since the CPT's first visit to Serbia in 2004, the legislative framework pertaining to imprisonment has undergone a number of changes, with the entry into force, in 2006, of a new Law on the Execution of Criminal Sanctions (LECS), a new Criminal Code, and new House Rules of Correctional Facilities and District Prisons. As regards the latter, it stipulates that cells must provide a minimum of 4 m<sup>2</sup> of living space per inmate. Following the adoption of these texts, many by-laws are still pending before Parliament. According to the Minister of Justice, this situation created legal uncertainty and hampered the effectiveness and full implementation of the new legal texts.

39. At the time of the second periodic visit, the total number of prisoners in Serbia stood at 9,000, compared to 7,600 in 2004. According to the Ministry of Justice, the maximum official capacity of the penitentiary system was 9,600; however, many establishments were not being used at their full capacity, due to on-going refurbishment, which resulted in overcrowding. The delegation observed for itself in the three establishments visited (which, together, were holding over a third of the country's prison population) that the levels of overcrowding reached disturbing proportions, especially in the sections for remand prisoners. The situation was exacerbated by the lengthy periods of time for which persons could be held on remand<sup>[23]</sup>. The delegation came across many cases where inmates spent years in the remand sections, which did not offer conditions adapted to such use.

The Minister of Justice informed the CPT's delegation of various measures conceived to address the problem of overcrowding. In the first place, the Serbian authorities have pressed on with their programme for expanding and modernising the prison estate (with the construction of a new prison in Padinska Skela, with a capacity of 450, and the refurbishment and expansion of existing prison establishments). Further, the new Criminal Code introduced alternatives to imprisonment (such as parole, community service and suspended sentences); however, the wider use of these alternatives has apparently been hampered by the reluctance of judges to resort to them.

The CPT is convinced that one of the most effective ways to control overcrowding and achieve the standard of at least 4 m<sup>2</sup> of living space per prisoner is to adopt policies designed to limit or modulate the number of persons sent to prison. In this connection, the Committee must stress the need for a strategy covering both admission to and release from prison to ensure that imprisonment really is the ultimate remedy. This implies, in the first place, an emphasis on non-custodial measures in the period before the imposition of a sentence and, in the second place, the adoption of measures which facilitate the reintegration into society of persons who have been deprived of their liberty.

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.

**The CPT reiterates its recommendation that the Serbian authorities redouble their efforts to combat prison overcrowding and, in so doing, to 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(2003)22 on conditional release (parole), Recommendation Rec(92)16 on the European rules on community sanctions and measures (as revised by Recommendation Rec(2000)22), as well as by Recommendation 1245 (1994) of the Parliamentary Assembly of the Council of Europe on the detention of persons pending trial.**

40. The delegation carried out follow-up visits to Belgrade District Prison and Sremska Mitrovica Correctional Institution, and a first-time visit to Požarevac-Zabela Correctional Institution. Further, a follow-up visit was paid to Belgrade Prison Hospital<sup>[24]</sup>, which is described in a separate section (see paragraphs 80 to 98).

With an official capacity of 450, Belgrade District Prison was accommodating 1,020 inmates at the time of the visit (compared to 720 in September 2004). The majority of them (897) were on remand (including 12 juveniles and 35 women). The delegation focused its attention on remand prisoners in the main establishment and in the Special Detention Unit located in Ustanička Street, used to hold prisoners charged with war crimes and organised crime (97 at the time of the visit).

Sremska Mitrovica Correctional Institution had an official capacity of 1,150, and was accommodating 1,275 inmates at the time of the visit, 95 of whom were on remand (including one woman). The delegation concentrated on the closed section of the establishment (holding 704 inmates), including Pavilion III<sup>[25]</sup>, accommodating prisoners identified as posing a security risk, and the remand section. It also visited the newly built admission/remand and drug-free units, located outside the main establishment's perimeter, which were empty at the time of the visit.

Požarevac-Zabela Correctional Institution occupied an extensive compound constructed at the beginning of the 20<sup>th</sup> century in the outskirts of the town of Požarevac, comprising closed, semi-open and open sections. The closed section had seven units (referred to as "pavilions") and was accommodating 900 male prisoners at the time of the visit. In the closed section, the delegation focused on Pavilion VII accommodating inmates identified as posing a security risk, and also visited Pavilion V and the admission unit. Further, it visited the separate remand section located in the town of Požarevac.

## **2. Ill-treatment**

41. The delegation received almost no allegations of physical ill-treatment by staff at *Sremska Mitrovica Correctional Institution*, which represents a positive development compared to the situation observed in 2004. The few allegations heard referred to truncheon blows by custodial staff in the context of interventions to put a stop to instances of inter-prisoner violence.

As regards *Belgrade District Prison*, the delegation received only a few allegations of physical ill-treatment by staff. They referred to truncheon blows inflicted by staff working in Unit 312 and by a special group of officers tasked for rapid intervention, as a form of punishment for making requests considered unacceptable by staff or in the context of resolving inter-prisoner conflicts.

In contrast, at *Požarevac-Zabela Correctional Institution*, the delegation received a number of allegations of recent physical ill-treatment, which referred to truncheon blows, kicks and slaps by custodial staff. Most of those allegations came from prisoners held in Pavilion VII; in particular, it was alleged that staff would take prisoners who had made complaints to the basement of that unit and beat them there. More generally, the delegation gained the clear impression that there was an atmosphere of fear in Pavilion VII; many inmates claimed to have been warned by staff that they would be beaten if caught asleep during the day or in case of complaining (see also paragraph 106).

Further, credible allegations of physical ill-treatment by staff were heard from prisoners held in the remand section of Požarevac-Zabela Correctional Institution, where the general atmosphere was very tense (see also paragraph 6).

**42. The CPT recommends that the management of Požarevac-Zabela Correctional Institution make use of all means at their disposal to decrease tension, in particular at the establishment's high security unit, Pavilion VII and the remand section. In addition to investigating complaints made by prisoners, this will require the regular presence of the establishment's senior managers in the detention areas (including in the remand section), their direct contact with prisoners, and the improvement of prison staff training.**

**In this context, the management of Požarevac-Zabela Correctional Institution must deliver the clear message to custodial staff that physical ill-treatment of inmates as well as other forms of disrespectful or provocative behaviour vis-à-vis prisoners are not acceptable and will be dealt with severely. A similar message should be given to staff at Belgrade District Prison.**

**Further, prison staff at all three establishments should be reminded that the force used to control violent and/or recalcitrant prisoners should be no more than necessary and once prisoners have been brought under control, there can be no justification for their being struck.**

43. During the visit, the delegation received reports 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. In response to a request for information made by the delegation, by letter of 11 January 2008, the Serbian authorities provided detailed information on the inquiry carried out into his death (including statements by staff members and inmates) and a copy of the autopsy report. Following a decision by the District Court of Požarevac to dismiss the investigation, the case was transferred to the jurisdiction of the Municipal Court of Požarevac, for examination of whether staff of Požarevac-Zabela Correctional Institution had overstepped their authority in the discharge of their duties and in applying means of coercion against the prisoner concerned. The case is still at the stage of investigation for the collection of evidence necessary to decide whether to proceed with charges.

The CPT trusts that a thorough investigation into this case will be continued. Indeed, the statements given by prison staff in the context of the first inquiry suggest that the physical force and means of restraint applied to the prisoner concerned might well have been disproportionate. There are also certain contradictions between the statements of staff and those made by inmates who were present at the time of the incident. Further, from the content of the autopsy report concerning X.'s death, it would appear that the conclusion ("violent death due to drug overdose") was based solely on a qualitative urine drug essay, without a toxicological quantitative analysis, especially from blood.

No consideration was apparently given to the presence of multiple external traumatic injuries (which are described in detail in the autopsy report) and their possible contribution to the death of the prisoner. **The Committee would like to be kept informed of the progress of the criminal investigation into this case and of its outcome.**

44. Reference should also be made to the case of a prisoner, held at Požarevac-Zabela Correctional Institution, who on 17 November 2007 was slapped several times by an officer. The officer concerned had reported the incident as a lawful use of force; however, the head of security decided to open disciplinary proceedings against him pursuant to Section 265 (1) of the LECS ("exceeding authority in using force"). **The CPT would like to be informed of the outcome of these proceedings.**

More generally, and in order to obtain a nationwide view of the situation concerning the treatment of prisoners by prison staff, **the CPT would like to receive the following information for 2007 and the first half of 2008 in respect of all prisons in Serbia:**

- **the number of complaints of torture and other forms of ill-treatment made against prison staff (with an indication of the authority to which the complaints were made);**

- **the number of disciplinary and criminal proceedings (pursuant to Sections 136 and 137 of the Criminal Code) which were instituted as a result of these complaints;**
- **an account of the outcome of these proceedings, including disciplinary and criminal sanctions imposed.**

45. During the 2007 visit, the delegation observed that custodial staff in the three prisons visited were carrying truncheons in full view of inmates. As mentioned in the 2004 report, this is not conducive to developing good relations between staff and prisoners. In their response to this report, the Serbian authorities indicated that truncheons were part of the uniform. The CPT would like to stress that, in its view, prison staff should never 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.**

Further, the delegation found wooden sticks and iron rods in staff offices located in pavilions at Požarevac-Zabela and Sremska Mitrovica Correctional Institutions. **The CPT recommends that these objects be removed from the offices of custodial staff without delay.**

46. The CPT is concerned by the manner in which the resort to “coercive means”<sup>[26]</sup> was being documented at the three establishments visited. As already mentioned in paragraph 6, at Požarevac-Zabela Correctional Institution, staff tried to alter the information in the register of the resort to “coercive means” in respect of the past years. Further, there appeared to be discrepancies between the information in the register and the one kept by health-care services, as well as in the individual reports on the use of “coercive means”. In addition, in the establishments visited, neither the registers, nor the reports on the use of “coercive means” gave any information about the type of fixation used or the length of fixation. Finally, in many cases, the description of the incident that led to the resort to “coercive means” was very poor.

In any prison system, prison staff may on occasion have to use force to control violent and/or recalcitrant prisoners. These are clearly high risk situations insofar as the possible ill-treatment of prisoners is concerned, and as such they call for specific safeguards. In particular, a record should be kept of every instance of resort to “coercive means” against prisoners. Moreover, physical force and means of restraint should never be applied as a punishment. A prisoner against whom any means of force have been used should have the right to be immediately examined and, if necessary, treated by a medical doctor. The results of the examination (including any relevant statements by the prisoner and the doctor's conclusions) should be formally recorded and made available to the prisoner, who in addition should be entitled, if he so wishes, to undergo a forensic medical examination. **The CPT recommends that the Serbian authorities take steps to bring the practice in line with the above considerations. In this context, it is also important to ensure that prosecutors and the Ministry of Justice’s Inspectorate are**

**systematically notified of any use of physical force and “coercive means” by prison staff, and that they be particularly vigilant when examining such cases.**

47. As stressed by the CPT in the report on its 2004, prison health-care services can make a significant contribution to prevention of ill-treatment of detained persons. The examination of medical records at the three establishments visited revealed that the recording and reporting of injuries observed on newly-arrived prisoners remained a problem. In this respect, **reference is made to the remarks and recommendation in paragraph 20.**

It is also noteworthy that, at Požarevac-Zabela Correctional Institution, the delegation was told by the head doctor that an instruction had recently been issued by the Administration for the Enforcement of Penal Sanctions not to record "light traumatic injuries". **The CPT would like to receive clarification of this point from the Serbian authorities.**

### 3. Material conditions of detention

48. The follow-up visit to Belgrade District Prison revealed that some positive changes had taken place since 2004. In particular, the *Special Detention Unit* in Ustanička Street (with a capacity of 150) had been refurbished and offered material conditions of a good standard; further, the renovation of two units in the main establishment had been completed. However, the delegation noted that no call system had been installed in any of the already refurbished cells; **the CPT recommends that this deficiency be remedied.**

Further, the Committee is concerned by the lack of improvement in the rest of the *main detention building*. The non-renovated wings offered very inadequate conditions of detention and the level of hygiene was poor. The most dilapidated cells were seen on the ground floor of the main building, especially in the units for solitary confinement, disciplinary sanctions and police custody. In fact, conditions had worsened as a result of the increase of the number of inmates by more than 40% since the 2004 visit. The delegation observed severe overcrowding throughout the establishment: by way of example, two to three prisoners were accommodated in cells measuring 6 m<sup>2</sup> (on the ground floor), 4 inmates in cells measuring 9 m<sup>2</sup>, and 16 inmates in a cell measuring 35 m<sup>2</sup>. Further, the toilets inside the cells on the ground floor were not partitioned and the common shower facilities were damp and dilapidated.

In addition, the delegation found that some inmates had no bedding (except the mattress) or had had to wait several days or even weeks to receive it; the delegation noted, in particular, that none of the juveniles had been provided with any bedclothes (pillows, bedsheets and blankets). Further, the establishment did not supply inmates with any personal hygiene items and products to clean their cells.

These deleterious material conditions were exacerbated by the fact that remand prisoners remained for 23 hours or more a day inside their cells, in some cases for several years (see paragraph 39). Such a situation could well be considered as amounting in itself to inhuman and degrading treatment.

49. In the report on its 2004 visit (see paragraph 104 of CPT/Inf (2006) 18), the CPT concluded that only a comprehensive and long-term programme of refurbishment could address in a satisfactory manner all the shortcomings at Belgrade District Prison; further, the Committee stressed that the structural problems of the prison's main building could not be modified without investing significant funds. The findings made by the CPT's delegation during the 2007 visit fully confirm these conclusions.

**The CPT calls upon the Serbian authorities to devise, as a matter of high priority, a comprehensive and fully budgeted refurbishment programme for Belgrade District Prison, comprising 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 sockets. The already refurbished sections of the Special Prison Hospital (see paragraph 85) could be used as a reference in the context of the refurbishment programme; the Committee would like to be informed of the progress in its adoption and implementation.

Further, pending the completion of the above-mentioned refurbishment programme, the Committee recommends that strenuous efforts be made immediately to:

- reduce significantly the occupancy level in the cells, the objective being to comply with the standard of 4 m<sup>2</sup> of living space per prisoner in multi-occupancy cells;
- refurbish the toilets (including the provision of a partition) and showers, especially on the ground floor of the main detention building;
- supply all inmates with appropriate bedding (including pillows), which should be cleaned at regular intervals, and a range of personal hygiene items and of products to clean their cells.

The Serbian authorities might also reflect on whether the available resources would not be used in a more efficient manner by building a completely new establishment in Belgrade (in order to replace the existing district prison), instead of continuing to repair the existing main establishment, with its numerous and serious deficiencies (see paragraph 48). **The CPT would like to receive the comments of the Serbian authorities on this subject.**

50. Despite assurances to the contrary given by the Serbian authorities in their response to the report on the 2004 visit, the *kitchen* of Belgrade District Prison was still located in the basement of the main detention building, close to the sewage system. As already stressed by the Committee in the report on its 2004 visit, such a location could pose a serious health risk. **The CPT calls upon the Serbian authorities to take, without delay, appropriate measures in the light of the above remarks.**

The delegation noted that juveniles accommodated at Belgrade District Prison were not offered food according to their dietary needs. **The CPT invites the Serbian authorities to remedy this situation.**

51. At the time of the visit, Sremska Mitrovica Correctional Institution was undergoing important renovation work. The refurbishment of Pavilion III had been



completed. Further, the kitchen had been renovated and met the necessary sanitary and hygiene criteria.

*Pavilion III*<sup>[27]</sup> was divided in two parts: one for prisoners identified as posing a security risk, inmates segregated for their own safety and those serving disciplinary sanctions; and another part reserved for admissions. It offered, on the whole, good conditions of detention. The cells measured 10 m<sup>2</sup> and were accommodating two inmates each; they were well lit and ventilated, and in an excellent state of repair and cleanliness. All the cells had a call system. That said, the in-cell toilets were not partitioned. Two of the cells were equipped with CCTV, and were reserved for isolation as defined in Section 140 of the LECS.

The contrast was striking with the conditions in *Pavilion II*, which were as poor as those observed during the 2004 visit. At the time of the 2007 visit, Pavilion II was accommodating 95 remand and 91 sentenced prisoners, including inmates placed in solitary confinement for disciplinary reasons. The cells were dilapidated, dirty and overcrowded (especially in the remand section, where cells measuring 10 m<sup>2</sup> accommodated up to 4 persons).

As for *Pavilion I*, it was partly under renovation with a view to partitioning the large dormitories into smaller rooms for six inmates each<sup>[28]</sup>, a measure which the CPT warmly welcomes.

52. New *admission/remand* and “*drug-free*” units, with respective capacities of 250 and 80 beds, had been built but were not yet operational at the time of the visit. These units offered material conditions of a good standard: the cells, designed to hold up to four inmates, measured 16 m<sup>2</sup> each and had large windows, a floor-heating system, lockers, TV and electricity sockets, and fully partitioned sanitary facilities comprising a toilet, a washbasin and a shower<sup>[29]</sup>. The delegation was told that the admission unit was about to be opened and would be accommodating some of the inmates from Pavilion I with a view to completing the planned renovation work. As regards the “drug-free” unit, the time frame for its operation remained unclear, reportedly due to staffing problems.

53. **The CPT recommends that steps be taken to refurbish, as a matter of priority, the cells in Pavilion II of Sremska Mitrovica Correctional Institution. Further, the Committee reiterates its recommendation (see paragraph 97 of CPT/Inf (2006) 18) not to accommodate more than two inmates in the cells of Pavilion II. The CPT also recommends that the in-cell toilets in Pavilion III be equipped with a partition.**

**The Committee would like to be informed of the timetable for the completion of the refurbishment of Pavilion I of Sremska Mitrovica Correctional Institution, as well as for bringing the new admission/remand and “drug-free” units into service.**

54. The closed section of Požarevac-Zabela Correctional Institution comprised five prisoner accommodation buildings ("pavilions"), an admission unit (with 50 beds), as well as other buildings containing the infirmary, kitchen, dining hall and chapel. There was also a brand new maximum security building, *Pavilion VI*, designed for "high-profile" prisoners (war crimes and organised crime) and surrounded by a separate perimeter wall; it was not yet in use at the time of the visit. **The CPT would like to be informed, in due course, of the date of entry into service of Pavilion VI, as well as its official capacity and detention regime.**

*Pavilion V* offered generally good material conditions of detention. The dormitories had large windows and were clean, well lit and ventilated. The common sanitary facilities were also clean and in a good state of repair. Further, there was a common room with a TV. However, the conditions in the dormitories were cramped, e.g. 8 inmates in a dormitory measuring 21 m<sup>2</sup>, 18 inmates in a dormitory measuring 39 m<sup>2</sup>. The effect of the overcrowding was nevertheless attenuated by the fact that there was an open-door regime during the day.

Conditions were also acceptable at the *admission unit* accommodating 47 inmates at the time of the visit; these prisoners spent up to 30 days there before being allocated to other units. Prisoners were accommodated in two large dormitories; further there was a common TV room, a kitchen and a bathroom.

55. *Pavilion VII* was a three-storey building, surrounded by a separate perimeter wall. It was accommodating 220 inmates at the time of the visit, who had been placed there for security reasons or for solitary confinement on disciplinary grounds. All the cells measured some 9 m<sup>2</sup> and were each accommodating up to four inmates; in other words, the living space per prisoner was totally insufficient. Further, access to natural light was poor (the cell windows were located high up on the wall and were covered by two layers of metal wire) and the artificial lighting was inadequate. The windows (with broken panes in some cells) could be opened in some cells, but not enough to provide adequate ventilation; further, the heating was not working properly. The equipment of the cells – which were generally dilapidated – consisted of bunk beds, a partly-partitioned toilet and a washbasin. The shower rooms in the pavilion were very dilapidated and poorly heated, and many inmates complained that the water in the showers was cold.

*Pavilion VII* also had a series of cells in the basement, which were reportedly used only in case of extreme overcrowding and, in any case, not since the spring of 2007. However, the delegation found evidence of these cells having been used just before its arrival (see paragraph 6). **The CPT would like to receive confirmation that the basement cells in Pavilion VII of Požarevac-Zabela Correctional Institution are no longer in service.**

56. The *remand section*, located in the town of Požarevac, was accommodating 71 inmates, including two in police custody<sup>[30]</sup>. The cells were overcrowded (i.e. 10 inmates

in a cell measuring 22 m<sup>2</sup>). Further, access to natural light was poor, as was artificial lighting and ventilation. The cell equipment was in principle adequate: it comprised bunk beds, lockers, tables, chairs and a fully-partitioned toilet. However, the cells were dirty and dilapidated. Inmates were not provided with any personal hygiene items, and prisoners complained that they were offered a shower only once or twice a month. It should also be noted that newly-arrived inmates had to wait several days before receiving their bedding.

**57. 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;**
- **refurbish Pavilion VII and the remand section, so as to remedy the deficiencies described in paragraphs 55 and 56 (including as regards toilets and showers);**
- **improve prisoners' access to a shower, in the light of Rule 19.4 of the revised European Prison Rules;**
- **provide all prisoners with a range of personal hygiene items and of products to clean their cells.**

58. In Pavilion VII of Požarevac-Zabela Correctional Institution, inmates were obliged to listen to loud music from the broadcasting system the whole day. **The Committee recommends that this oppressive practice be stopped immediately;** it was rightly the subject of complaints by several prisoners.

#### **4. Activities**

59. Section 239 of the LECS stipulates that "remand prisoners are held in penal institutions under the same conditions as sentenced prisoners, unless otherwise provided by the Criminal Procedure Code". The new LECS guarantees all prisoners the right to work, and primary and secondary education, as well as other forms of education.

Despite these provisions, the delegation noted that the only out-of-cell activity available to remand prisoners was outdoor exercise. At Belgrade District Prison, it lasted only up to 40 minutes a day, and was not offered at weekends. Further, prisoners in the remand section of Požarevac-Zabela Correctional Institution complained that out-door exercise was limited to some 15 minutes three times a week. The situation was better at Sremska Mitrovica Correctional Institution, where inmates could take up to one hour of outdoor exercise a day, including at weekends.

It should be added that the exercise yard at Belgrade District Prison was still not equipped with any shelter from inclement weather, and had no means of rest. **The CPT calls upon the Serbian authorities to ensure that all remand prisoners at Belgrade District Prison and Požarevac-Zabela and Sremska Mitrovica Correctional Institutions are offered the possibility to take outdoor exercise every day for at least one hour.** Further, **the exercise yard at Belgrade District Prison should be equipped with a means of rest and a shelter against inclement weather.**

60. In the three establishments visited, remand prisoners were offered no purposeful activities, such as work, education, vocational training or sports. Even access to books was not always guaranteed, e.g. the library at Belgrade District Prison contained only some 100 books, and most inmates were unaware of its existence. At the above-mentioned establishment, given the poverty of the regime of activities and in the context of the refurbishment programme referred to in paragraph 49, remand prisoners should be offered better access to television and radio, by means of installing power and TV sockets inside their cells. Naturally, such a measure could not replace a genuine programme of activities.

In the CPT's view, the starting point for considering regimes for remand prisoners must be the presumption of innocence and the principle that prisoners should be subject to no more restrictions than are strictly necessary to secure their safe confinement and the interests of justice. Any restrictions should be kept to a minimum and be of the shortest possible duration.

The current absence of constructive activities for prisoners in remand sections of the establishments visited aggravates the experience of imprisonment and renders it more punitive than the regime for sentenced persons. Taken together with the restrictive rules on contact with the outside world (see paragraph 100 below), this produces a regime which is oppressive, stultifying and threatening to the maintenance of physical and mental health.

As stressed in the report on the 2004 visit, the CPT recognises that the provision of organised activities in remand prisons, where there is likely to be a high turnover of inmates, poses particular challenges; however, it is not acceptable to leave prisoners to their own devices for months – and even years – at a time. All prisoners (including those on remand) should spend a reasonable part of the day outside their cells engaged in purposeful activities of a varied nature: work, preferably of a vocational value, education, sports, recreation/association, etc. **The CPT calls upon the Serbian authorities to review the regime of remand prisoners, in the light of the above remarks.**

61. The regime of activities offered to juvenile prisoners at Belgrade District Prison was basically non-existent. Outdoor exercise was the only regular out-of-cell activity and took place in the inadequate conditions already described above. No provision was made

for education or vocational training for juvenile prisoners, despite the fact that some of them had spent up to ten months in prison.

**The CPT recommends that the Serbian authorities take urgent measures to ensure that juvenile prisoners are offered educational and recreational activities, which take into account the specific needs of their age group. Physical education should form a major part of that programme. For this purpose, juvenile prisoners should have access to the indoor gym facility on the premises of the prison.**

62. As regards sentenced prisoners, the delegation was informed at the closed section of Požarevac-Zabela Correctional Institution that some 380 inmates were employed in various workshops (woodwork, printing, as well as farming activities). At Sremska Mitrovica Correctional Institution, 709 of a total of 1,275 inmates had work (woodwork, metalwork, cardboard production, printing, and farming activities), but these were inmates from the semi-open and open sections. As to inmates from the closed section, less than one third of inmates from Pavilions I and II worked.

At Sremska Mitrovica Correctional Institution, the school building had been renovated and offered elementary and secondary education to some 30 sentenced prisoners. The school building at Požarevac-Zabela Correctional Institution was out of use and the delegation understood that there was no immediate plan to refurbish it; consequently, no educational activities were offered to inmates in this establishment.

The CPT welcomes the re-opening of the school at Sremska Mitrovica Correctional Institution and **would like to be informed of any similar projects underway in the Serbian penitentiary system.** Further, **the CPT recommends that the Serbian authorities take steps to increase the provision of purposeful activities for sentenced prisoners. In this context, the authorities should seek to introduce measures aimed at ensuring that all prisoners are provided with an opportunity to work. Efforts should also be made to develop programmes of education and vocational training in all penitentiary establishments.**

63. The delegation also met a number of prisoners identified as posing a security risk (including prisoners serving long sentences), who were accommodated in Pavilion VII of Požarevac-Zabela Correctional Institution and Pavilion III of Sremska Mitrovica Correctional Institution. They took their daily outdoor exercise (up to one hour, including on weekends) only with their cellmates or, in some cases, with inmates from another cell; no other form of association was allowed to them. Further, none of these prisoners was offered any form of organised activity (be it work, education or vocational training, or sports), and in-cell activities were limited to reading and access to TV/radio. As regards in particular Pavilion VII of Požarevac-Zabela Correctional Institution, the lack of activity, combined with a very poor material environment (see paragraph 55), resulted in totally unacceptable conditions of detention.

64. In the CPT's view, prisoners presenting a particularly high security risk should, within the confines of their detention units, enjoy a relatively relaxed regime by way of compensation for their severe custodial situation. In particular, they should be able to meet their fellow prisoners in the unit and be granted a good deal of choice about activities. Special efforts should be made to develop a good internal atmosphere within high-security units. 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.

As regards prisoners serving long sentences, the CPT wishes to stress that long-term imprisonment can have a number of desocialising effects upon inmates. The regimes which are offered to such prisoners should seek to compensate for these effects in a positive and proactive way. The prisoners concerned should have access to a wide range of purposeful activities of a varied nature (work, preferably with vocational value; education; sport; recreation/association).

Moreover, they should be able to exercise a degree of choice over the manner in which their time is spent, thus fostering a sense of autonomy and personal responsibility. Additional steps should be taken to lend meaning to their period of imprisonment; in particular, the provision of individualised custody plans and appropriate psycho-social support are important elements in assisting such prisoners to come to terms with their period of incarceration and, when the time comes, to prepare for release. **The CPT calls upon the Serbian authorities to take steps to develop the regime applied to prisoners identified as posing a security risk and other long-term prisoners at Požarevac-Zabela and Sremska Mitrovica Correctional Institutions, taking due account of the remarks above. If necessary, the relevant legislation should be amended.**

65. In the report on the 2004 visit, the CPT recommended that the implementation of the classification system for sentenced prisoners be reviewed. The House Rules of Correctional Facilities and District Prisons, adopted in 2006, provide for a classification system which is similar to the one in place at the time of the 2004 visit. There are three categories: A, B, V, each being subdivided into 2 sub-categories.

According to the House Rules, the assessment of the inmate is performed by a classification team comprising a psychologist, a pedagogue, a social worker, a doctor, and a member of the security guard service. The Director of the penitentiary establishment reviews the treatment program at least once quarterly, based on the proposal of the classification team. The system *inter alia* foresees a list of privileges which may be granted to prisoners. Whereas the list of privileges for categories A and B was detailed, the privileges for category V were formulated in a vague way<sup>[31]</sup>.

66. The vast majority of inmates interviewed during the visit complained about the absence of explanation on the functioning of the classification system and the lack of transparency in its implementation, which resulted in a strong feeling of injustice and a suspicion of corruption among the prisoners. Further, some inmates complained that the regular review of classification was not properly carried out (for example, in Pavilion VII of Požarevac-Zabela Correctional Institution it was alleged that the educator either never met the inmates concerned or spoke with them only for a few minutes, from the cell door, with a custodial officer standing behind him).

When met by the CPT's delegation, the Minister of Justice admitted that the classification system was not transparent and had to be reviewed. **The CPT recommends that the Serbian authorities review the classification system and its implementation as a matter of urgency, with a view to making it effective, objective, clear and linked with a comprehensive treatment programme.**

67. The delegation was concerned to receive complaints from remand prisoners held at Belgrade District Prison and Sremska Mitrovica Correctional Institution concerning the impossibility to meet a religious representative in private, reportedly because all visits required the authorisation of a judge (see also paragraph 100); further, the chaplain interviewed at Sremska Mitrovica stated that he was not allowed to meet remand prisoners. **The CPT recommends that steps be taken to remedy this situation.**



## 5. Health-care services

68. Efforts had been made since the 2004 visit to reinforce health-care staffing levels at Belgrade District Prison and Sremska Mitrovica Correctional Institution. At Belgrade Prison, the number of doctors had increased to six, and that of nurses ("medical technicians") to seven. At Sremska Mitrovica, there were three full-time doctors, and twelve "medical technicians" (two of them being present at any given time). However, despite these positive developments, given the prisoner populations of the two establishments (respectively 1,020 and 1,275), health-care staffing levels still left much to be desired, in particular as regards the number of qualified nurses ("medical technicians").

As regard Požarevac-Zabela Correctional Institution, the health-care staff complement comprised a Head doctor (neuropsychiatrist by training), two general practitioners and four "medical technicians". These staff resources were clearly insufficient to provide health care to some 1,300 prisoners.

Further, the dental care arrangements were insufficient at the three establishments visited: Belgrade District Prison and Požarevac-Zabela Correctional Institution employed each a full-time dentist, but there was only a (full-time) dental technician at Sremska Mitrovica Correctional Institution. In addition, the equipment of dental surgeries was inadequate in the three prisons visited.

**The CPT recommends that the Serbian authorities take steps to reinforce the health-care resources of the three establishments visited, and in particular to:**

- **substantially increase the number of qualified nurses ("medical technicians");**
- **appoint one more general practitioner at Požarevac-Zabela Correctional Institution;**
- **improve the dental care arrangements;**
- **ensure that someone qualified to provide first aid, preferably with a recognised nursing qualification, is always present on the prisons' premises, including at night and weekends.**

69. At Sremska Mitrovica and Požarevac-Zabela Correctional Institutions, health-care staff were assisted by several prisoners employed as orderlies. The delegation was also concerned to note that the distribution of medicines to prisoners was not reserved to 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 Committee recommends that the use of prisoners as orderlies at Sremska Mitrovica and Požarevac-Zabela Correctional Institutions be phased out, and that steps be taken to ensure that the distribution of medicines is performed by qualified health-care staff.**

70. As regards the provision of psychiatric and psychological care to prisoners, the situation observed in the establishments visited during the 2007 visit is a matter of concern to the CPT. Each of them accommodated a certain number of inmates with psychiatric or psychological problems. However, only Požarevac-Zabela Correctional Institution employed a full-time psychiatrist (a visiting psychiatrist came twice a week to Belgrade Prison and to Sremska Mitrovica Correctional Institution). Further, there was no psychologist available at any of the establishments visited. In the three establishments, the delegation came across a few prisoners who were clearly mentally disturbed but were not receiving appropriate care; this was particularly the case at Požarevac-Zabela Correctional Institution, where custodial staff complained to the delegation about this state of affairs. **The CPT recommends 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.**

71. At the three establishments visited, there appeared to be delays as regards transferring inmates for treatment to hospital facilities and access to medical specialists outside the penitentiary system (up to one and a half months). **The CPT would like to receive the comments of the Serbian authorities on this question.**

72. The importance of medical screening of newly arrived prisoners cannot be over-emphasised. Such screening is indispensable, in particular in the interests of preventing the spread of transmissible diseases, suicide prevention, and ensuring the timely recording of injuries.

The House Rules in Correctional Facilities and District Prisons stipulate that prisoners should be medically examined within 24 hours of their arrival at the establishment. However, the information gathered by the delegation indicates that compliance with this provision was not always guaranteed. For example, at Belgrade District Prison, up to three days could elapse before a newly arrived prisoner was medically examined for the first time (e.g. if a prisoner arrived on Friday afternoon, the examination took place on the following Monday). Delays of up to 9 days in the initial medical examination were observed at Sremska Mitrovica Correctional Institution, and up to 15 days at Požarevac-Zabela Correctional Institution.

Further, the medical examination upon admission appeared to be cursory, consisting merely of asking the prisoner questions about previous diseases, and taking his pulse and blood pressure (there were no paraclinical examinations). As already mentioned in paragraph 47, the thoroughness of the initial examination with respect to the recording of injuries borne by newly-arrived prisoners left much to be desired. In addition, the delegation noted that injuries sustained by prisoners within the prison establishments – following the use of "coercive means" (e.g. truncheons) or incidents of inter-prisoner violence – were not properly recorded (if at all).

**The CPT recommends 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. The medical examination on admission should be comprehensive, including appropriate screening for transmissible diseases (see also paragraph 75). In this context, reference is made to the recommendation in paragraph 20 concerning the record to be drawn up following the medical examination of a newly-arrived prisoner. The same approach should be followed whenever a prisoner is medically examined following a violent episode in prison.**

73. Pursuant to Section 102 of the LECS, "a medical examination of a prisoner is conducted only in the presence of a medical officer, unless the medical officer requests otherwise". However, the delegation was concerned to learn that at the three establishments visited, medical examinations were systematically performed in the presence of custodial staff, health-care staff considering that as a standard procedure.

The CPT must stress that all medical examinations of prisoners (whether on arrival or at a later stage) should be conducted out of the hearing and – unless the doctor concerned requests otherwise in a particular case – out of the sight of prison officers. **The Committee recommends that the Serbian authorities ensure that this is the case.**

74. As regards the keeping of medical documentation, one positive development is that personal medical files are now opened also in respect of remand prisoners. However, the CPT remains concerned about the quality of medical documentation in Serbian prisons. In particular, the information contained in individual medical files was very meagre (for example, there was no ongoing record of the prisoner's evolution and any examinations he had undergone). Further, medical registers displayed inconsistencies and lacked uniformity.

**The CPT recommends that the quality of medical documentation in Serbian prisons be improved. In particular, personal medical files should contain diagnostic information as well as an ongoing record of the prisoner's state of health and of any special examinations he/she has undergone. The Committee also invites the Serbian authorities to introduce a uniform system for keeping medical registers in the penitentiary system.**

75. Turning to transmissible diseases, according to the information provided by officials from the Ministry of Health, tuberculosis is no longer an issue of concern. However, the Serbian penitentiary system is affected by an increasing number of cases of hepatitis B and C. **The CPT recommends that the Serbian authorities develop a strategy for combating transmittable diseases in prison (in particular, hepatitis, HIV, dermatological infections) involving the provision of information to both prisoners and prison staff concerning methods of transmission, as well as the supply of appropriate means of protection analogous to those used in the community at large.**

76. The delegation was informed that the number of prisoners with drug-related problems was on the rise. However, it appeared during the visit that little action (other than traditional prison security) was being taken as regards prevention, and the provision of psycho-socio-educational assistance to such prisoners was underdeveloped. The construction of a "drug-free" unit at Sremska Mitrovica Correctional Institution is a welcome development; however, as already noted, at the time of the visit that unit was not yet operational<sup>[32]</sup>.

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 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.**

77. The delegation observed a number of shortcomings in the recording and investigation of deaths of inmates at the penitentiary establishments visited. As had been the case during the CPT's 2004 visit, autopsy reports of inmates who had died in the prisons were very superficial, lacking a complete toxicological and/or histological analysis and an objective analysis of clinical findings, including the cause of death. Further, 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.

In addition, in the case of an inmate who had died during the night of his admission at Belgrade District Prison, in 2007, there was no trace of any medical record upon admission, and deficiencies and inconsistencies in the different reports on this case did not permit the establishment of the exact circumstances of the death<sup>[33]</sup>. **The CPT recommends that the Serbian authorities remedy these shortcomings, in the light of the above remarks, and that prison doctors be systematically provided with the conclusions of autopsy reports concerning prisoners who have died in their establishments.**

78. The CPT wishes to stress that the task of prison health-care services should not be limited to treating sick prisoners. They should also – in co-operation with other relevant services – supervise catering arrangements, hygiene conditions as well as the heating, lighting and ventilation of cells. Work and outdoor exercise arrangements should also be taken into consideration. Insalubrity, overcrowding, prolonged isolation and inactivity may necessitate either medical assistance for an individual prisoner or general medical action vis-à-vis the responsible authority. **The CPT recommends that the Serbian authorities take steps to ensure the active involvement of prison health-care services in all health-related aspects in prisons, in the light of the above remarks.**

79. Prison health-care services in Serbia are placed under the authority of the Ministry of Justice; however, the Ministry of Health is responsible for supervising the standards of care. In this respect, and in the light of the remarks made in paragraphs 68 to 78 above, **the CPT wishes to stress that the Ministry of Health should get 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 for the principle of equivalence of care. This means that prison health-care services should be able to provide medical treatment and nursing care, as**

**well as physiotherapy, rehabilitation or any other necessary special facility, in conditions comparable to those enjoyed by patients in the outside community.**

## 6. Special Prison Hospital in Belgrade

80. The Special Prison Hospital in Belgrade – Serbia’s only prison hospital – was visited by the CPT in 2004<sup>[34]</sup>; reference is thus made to the general description of this establishment made in the report on that visit<sup>[35]</sup>. At the time of the 2007 visit, the hospital was accommodating some 530 patients for the official capacity of 400 beds.

81. Most of the patients interviewed by the CPT’s delegation at the Special Prison Hospital had no complaints about the attitude of staff; further, the delegation observed a generally relaxed atmosphere on the wards. However, a few allegations of physical ill-treatment by custodial staff (consisting of truncheon blows) were received, and the delegation observed in the relevant documentation that several recent cases of the use of truncheons had been recorded, occasionally in respect of psychiatric patients (see also paragraph 84). In this context, the delegation was concerned to note that custodial officers could still enter the patients’ living areas on their own authority, and that they continued to carry truncheons in a visible manner while being present in these areas. In addition, the delegation heard some allegations of verbal abuse by custodial staff.

**The CPT recommends that custodial staff at the Special Prison Hospital in Belgrade be reminded that all forms of ill-treatment (including verbal abuse) are not acceptable and will be the subject of severe sanctions. Further, 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.**

82. The delegation was informed that custodial staff working at the Special Prison Hospital had not received any special training before taking up their duties; neither was there any organised in-service training. Further, there were no specific instructions for them on how to work in a hospital environment.

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.

**The CPT recommends that detailed regulations concerning the duties of custodial staff employed at the Special Prison Hospital in Belgrade be adopted as a matter of urgency. The Committee also recommends that steps be taken to review the procedures for the selection of security staff and their initial and ongoing training.**

83. It became clear from interviews with patients and staff that inter-patient violence continued to be a problem in the hospital, in particular in the drug treatment ward (D). On the positive side, unlike in 2004, the delegation did not receive any allegations of sexual abuse of patients by other patients. **The CPT recommends that the Serbian authorities step up their efforts to combat the phenomenon of inter-patient violence at the Special Prison Hospital in Belgrade; this will require *inter alia* a substantial increase in nursing staff levels and presence (see paragraph 92).** Reference is also made to the remarks and recommendations in paragraphs 152 and 153.

84. Concerning the use of means of restraint in respect of psychiatric patients, the delegation noted that seclusion was not practised and that chemical restraint was only rarely used. As for mechanical restraint, a decision had been taken to stop using metal chains and padlocks; instead, leather belts were being used. Further, in the psychiatric Wards A and B, the delegation noted the introduction of special registers for recording instances of use of restraints (in addition to recording them in the logbook of the security department, nurses' books and patients' individual files). **This positive initiative should be extended to all the wards.**

However, the CPT continues to have concerns about several aspects of the use of means of restraint at the Special Prison Hospital. Mechanical restraint was still applied frequently<sup>[36]</sup> and, on occasion, for prolonged periods. The delegation observed a practice of doctors ordering that patients be restrained at night<sup>[37]</sup> during several months and even (in one case) for 1.5 years<sup>[38]</sup>. **The application of restraints every night for months on end has no therapeutic justification.** The delegation was also concerned to note that the hospital's management continued to resort to the assistance of custodial staff in applying mechanical restraint, **a task that should normally be performed only by duly trained health-care staff**<sup>[39]</sup>.

As a rule, a restraint measure was only applied upon a written order issued by a doctor, who also specified the manner of restraining (one/two legs, hands, waist) and, in principle, the duration of the measure. Occasionally<sup>[40]</sup>, it could happen that truncheons and/or handcuffs were used to bring under control an agitated psychiatric patient. However, a doctor was always informed immediately and his instructions were followed. Nevertheless, the CPT must stress that **the use of truncheons and handcuffs is not an appropriate way of dealing with agitated psychiatric patients.**

The delegation noted that patients were still sometimes restrained in view of other patients. Further, the nurses (and custodial staff) had not received any specific training on the use of the means of restraint, and there was still no written policy on the use of restraints in the hospital.

In the light of the above remarks, **the CPT reiterates the recommendation made in paragraph 155 of the report on its 2004 visit, concerning the need to draw**



**up a clearly defined policy on the use of means of restraint at the Special Prison Hospital in Belgrade.**

**This policy should 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. Nursing staff (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.** The possession of such skills will enable staff to choose the most appropriate response when confronted by difficult situations, thereby significantly reducing the risk of injury to patients and staff.

85. As for patients' living conditions, the CPT welcomes the ongoing refurbishment of the hospital, which has so far allowed upgrading of approximately 30% of the patient accommodation. The refurbished Ward A and a part of Ward B offered reasonably good conditions. The rooms had large windows, adequate ventilation and heating, and were suitably equipped. That said, the positive effect of the refurbishment was to a large extent negated by overcrowding (e.g. up to 12 patients in a room measuring 22 m<sup>2</sup>; 17 patients in a room of 40 m<sup>2</sup>)<sup>[41]</sup>.

Conditions in the non-refurbished wards had further deteriorated and were extremely poor, especially in the non-renovated part of Ward B and in Wards D, E and G. Furthermore, these wards suffered from severe overcrowding.

In their letter of 11 January 2008, the Serbian authorities informed the CPT that the refurbishment of the remaining part of Ward B would start in February 2008, and would be completed by the end of the year; the necessary financial resources (40 mln RSD) had been allocated for this purpose. It was also planned to open in February 2008 a new area of 1,300 m<sup>2</sup> for medical consultations and psycho-social therapeutic activities. The refurbishment of the remaining wards would start in 2009. **The CPT recommends that the refurbishment programme of the Special Prison Hospital in Belgrade be pursued as a high priority. Further, ways should be sought to significantly reduce the level of overcrowding at the establishment.**

86. Despite the recruitment of 7 cleaning staff, the hospital continued to experience difficulties in maintaining adequate levels of hygiene (including in the toilets and showers). In practice, the task of cleaning was still largely left up to the patients themselves. Further, there were not enough special mattresses and diapers for incontinent patients; the delegation saw one incontinent patient in Ward B lying on a sponge mattress soaked with excrement.

The hospital did not have its own laundry facility and had to pay for laundry services of an outside company; consequently, only bedsheets were sent to the laundry (twice a month) while patients' clothes were supposed to be washed by the patients

themselves. Naturally, this resulted in difficulties in keeping the patients' clothes clean, especially in the psychiatric wards.

**The CPT recommends that the Serbian authorities take urgent steps to address the problem of hygiene in patients' accommodation areas at the Special Prison Hospital in Belgrade. Particular attention should be given to the needs of incontinent patients (including the adequate supply of special mattresses and diapers). Further, arrangements should be found to ensure that patients' clothes are kept clean.**

87. The Committee is seriously concerned by the lack of progress as regards patients' access to outdoor exercise. At the time of the 2007 visit, outdoor exercise was still limited to a maximum of 45 minutes from Monday to Saturday, and was not available at all on Sundays. It is also noteworthy that the hospital's vast outdoor exercise yard lacked any means of rest and a shelter against inclement weather. The delegation was informed of the management's plan to divide the yard into two parts, enabling two groups of patients to take exercise simultaneously. **The CPT recommends that steps be taken without delay to ensure that all patients whose medical condition allows it are offered the possibility to take outdoor exercise every day, in accordance with the law<sup>[42]</sup>. Further, the outdoor exercise yard should be equipped with a means of rest and a shelter against inclement weather.**

88. The treatment offered to psychiatric patients continued to be mainly based on pharmacotherapy<sup>[43]</sup>. There were generally no problems with the supply of psychiatric medication, although new-generation neuroleptics were not available. As far as the delegation could ascertain from interviews with patients and consultation of their medical files, the types and dosage of medication prescribed to patients were adequate.

However, the offer of psycho-social rehabilitative activities remained underdeveloped. There were some limited possibilities to participate in art therapy, individual and group psychotherapy and sports. Further, a few patients helped staff with maintenance tasks (for which they received a symbolic salary). That said, many of the patients spent their days in their rooms or on corridors, without any organised activities (other than playing board games, reading books from the hospital's library, watching TV or listening to the radio). The delegation was also concerned to note that there were still no individual treatment plans for psychiatric patients.

**The CPT reiterates its 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, providing for motivation, development of learning and relationship skills, acquisition of specific competences and improvement of self-image. Further, the Committee reiterates its recommendation that an individual treatment plan be drawn up for each psychiatric patient (taking into account the special needs of acute and long-term patients), including the goals of the treatment, the therapeutic means used and the staff members responsible. Patients should be involved in the drafting of their individual treatment plans and the evaluation of their progress.**

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.**

90. As regards somatic care, progress has been made with respect to access to outside specialists and hospitalisation, which no longer seemed to pose any particular problems. The delegation noted that the somatic screening of newly-arrived patients was performed systematically and thoroughly. The delegation was also told that the initial examination procedure included screening for TB; **the CPT would like to receive confirmation that this is the case.** Further, the Committee wishes to stress that **the remarks and recommendations made in paragraphs 20 and 47 on the subject of the recording and reporting of injuries observed on newly-arrived prisoners apply equally with respect to the Special Prison Hospital in Belgrade.**

The delegation was informed by the hospital's management that new medical equipment (ECG, USG, laboratory equipment, equipment for the dental surgery) had been purchased recently. The CPT welcomes this development. It is also noteworthy that all the medical files and other medical documentation seen by the delegation was well kept, and the confidentiality of medical examinations and documentation appeared to be respected.

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 and provided with a treatment following the DOTS method<sup>[44]</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.**

92. There has been some improvement since the 2004 visit as regards health-care staff resources at the Special Prison Hospital. In particular, the hospital employed 35 full-time doctors<sup>[45]</sup>, including 25 psychiatrists or neuro-psychiatrists, two GPs, four internal medicine specialists, a radiologist, a dentist, a pharmacist and a laboratory doctor. In addition, there were 10 visiting specialists from outside hospitals (including surgeons, an orthopaedist, a lung specialist and an ENT specialist), as well as 3 psychiatrists who were only involved in psychiatric assessments<sup>[46]</sup>. The nursing staff complement has also been increased, to a total of 82 (24 new nurses had been recruited since 2004). As a result, there were 3 – 4 doctors and 4 – 6 nurses on a day shift on each of the wards. Further, there was a considerable improvement as regards health-care staff's presence at night and on weekends: two doctors (instead of one previously) for the whole hospital, and one nurse per ward (instead of two for the whole hospital).

Despite these positive developments, it remains a fact that the health-care staff complement and times of presence are not sufficient to meet the needs of the hospital, accommodating a large number of seriously ill patients with a wide spectrum of pathologies. In particular, resort to systematic mechanical restraint at night of certain psychiatric patients is a clear manifestation of the nursing staff's inability to devote enough time to offering the necessary support and care for individual patients. It should

also be added that, as in 2004, the nurses employed at the hospital did not benefit from any formal specialised training in psychiatric nursing.

The hospital employed some staff qualified to offer psycho-social rehabilitative activities to psychiatric patients (four full-time psychologists, two educators, one work therapist and two social workers). However, this staffing complement was clearly not sufficient, as acknowledged by the establishment's director and the doctors with whom the delegation spoke. For example, one educator was responsible for the whole floor with approximately 250 patients, and the work therapist could only engage up to 20 patients per day.

**The CPT recommends that further efforts be made to increase the staffing levels and the time of presence of health-care staff at the Special Prison Hospital in Belgrade, especially as regards nurses and staff qualified to provide psycho-social therapeutic activities. Further, the Committee recommends that steps be taken to provide nurses working with psychiatric patients with training reflecting the specialised nature of their work.**

93. A disciplinary/isolation unit was located on the ground floor of the hospital. Material conditions in this unit were poor and rendered them unsuitable for prolonged periods of detention, as sometimes occurred (i.e. up to 20 days). The cells were quite small (under 6 m<sup>2</sup>), dirty and malodorous; they had no access to natural light, their walls and floors were damaged, and the equipment was dilapidated. **The CPT recommends that these cells be taken out of service until such time as the above-mentioned deficiencies be remedied.**

The delegation heard complaints from inmates at the hospital that, while placed in a disciplinary/isolation cell, they could only take 5 minutes of outdoor exercise per day. Further, some of them complained of lack of access to a shower. **The CPT recommends that steps be taken to ensure that inmates placed in disciplinary/isolation cells are offered at least one hour of outdoor exercise each day. Further, persons placed in such cells should be granted access to a shower at least once, preferably twice, a week.**

It should be added that psychiatric patients were never placed in the above-mentioned disciplinary/isolation cells. This is most welcome.

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.

**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.**

96. The delegation was informed by the management and doctors at the Special Prison Hospital that courts sometimes refused to follow the hospital's recommendations for release of forensic psychiatric patients (or for replacement of an in-patient compulsory measure with an outpatient one) on non-medical grounds, e.g. the refusal of the family to take back the patient or the lack of a place to live and work. At the time of the visit, there were some 20 patients at the hospital who did not need to continue their hospitalisation but whose release had been refused on such grounds. Reportedly, these patients should have been transferred to a social care institution but there was no place available for them. This is unacceptable. **The CPT calls upon the Serbian authorities to seek to resolve this problem.**

97. The CPT has noted that patients at the Special Prison Hospital had good possibilities to send confidential complaints<sup>[47]</sup> to various outside bodies. However, complaints were extremely rare in practice. This could at least partly be explained by the absence of any written information for patients.

In this context, 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 CPT recommends that such a brochure be drawn up and systematically provided to patients and their families on admission to the Special Prison Hospital in Belgrade.**



98. The CPT's delegation was informed that forensic autopsies were automatically performed after each death of a patient at the Special Prison Hospital, and the results sent to the competent investigative judge. In this context, the delegation was provided with copies of documents concerning the death of patient Z., who had reportedly committed a suicide by hanging on 11 November 2007.

However, more detailed information about the circumstances of the patient's death, as well as the autopsy report, were not available to the delegation at the time of the visit. **The CPT would like to be provided with this information in due course.**

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

### a. staff issues

99. The delegation was informed that the Staff Training Centre of the Administration for the Enforcement of Penal Sanctions, located in Niš, had become operational in 2006. The CPT welcomes this important development and **encourages the Serbian authorities to continue to give high priority to the advancement of prison staff training, both initial and on-going. In the course of such training, considerable emphasis should be placed on adherence to official policies, practices and regulations of the prison service (including the European Prison Rules). The development of interpersonal communication skills should also have a prominent part in training; building sound and constructive relations with prisoners should be recognised as a key feature of a prison officer's professional role.**

### b. contact with the outside world

100. The legal framework for contact with the outside world with respect to remand prisoners had not changed since the 2004 visit, and the new CCP contains the same provisions as those criticised by the CPT in the 2004 visit report<sup>[48]</sup>. The delegation received many complaints from remand prisoners, in all the establishments visited, concerning the difficulties in obtaining the authorisation to receive visits<sup>[49]</sup>.

As noted in the 2004 visit report, the CPT recognises that on occasion it may be necessary, in the interests of ongoing proceedings, to impose certain restrictions on visits for particular remand prisoners. However, any such restrictions should be strictly limited to the requirements of a given case and applied for as short a time as possible. Under no circumstances should visits between a remand prisoner and his/her family be prohibited for a prolonged period. If it is considered that there is an ongoing risk of collusion, visits should be authorised, but under supervision. **The CPT reiterates its recommendation that the law and regulations be amended so as to ensure that granting visits to remand prisoners is the norm, the refusal of visits the exception.**

101. The Committee is concerned by the continuation of the practice, described in the report on the 2004 visit, of systematic reading of remand prisoners' correspondence with their lawyers. This is contrary to the principle of confidentiality of contacts between remand prisoners and their lawyers, which is re-affirmed in Rule 23.4 of the Revised European Prison Rules. **The CPT reiterates its recommendation that the practice of systematically reading remand prisoners' correspondence with their lawyers be stopped immediately.**

102. According to Section 56 of the House Rules of Correctional Facilities and District Prisons, sentenced prisoners are entitled to visits, of a minimum of one hour once a week in open sections, twice a month in semi-open sections, and once a month in closed sections. Further, pursuant to Section 60 of the above-mentioned House Rules, inmates may, once every three months, spend a minimum of 3 hours with their spouses and/or children and other close relatives or friends in special rooms within the correctional facility. As regards inmates classified in V category (see paragraph 65), they have the right to receive such intimate visits more often than prisoners of other categories (i.e. up to once a month for V1-category prisoners and up to once every two months in the case of V2-category inmates); that said, prisoners classified in V category do not benefit from other possibilities of contact with the outside world (such as short and long-term leaves) offered to inmates from other categories<sup>[50]</sup>. Furthermore, the delegation heard many complaints from V-category inmates at Pavilion VII of Požarevac-Zabela Correctional Institution that the above-mentioned rules were interpreted in a restrictive manner in their respect.

In the CPT's view, 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 guiding principle should be to promote contact with the outside world; any restrictions on such contacts should be based exclusively on security concerns of an appreciable nature or considerations linked to available resources. The revised European Prison Rules make explicit reference to the importance of such contacts in Rules 24.1 to 24.8. **The CPT recommends that the existing law and regulations be reviewed, in the light of the above remarks.**

103. According to Section 47 of the House Rules of Correctional Facilities and District Prisons, sentenced prisoners in a closed section have access to a telephone once a week, and inmates in the semi-open and open sections every day, if possible; the duration of a call is set at 10 minutes maximum. The prison must provide an adequate number of phone booths corresponding to the number of inmates. However, the CCP in force is silent as regards access to telephone for remand prisoners.

At Sremska Mitrovica Correctional Institution, the delegation did not receive particular complaints from prisoners about access to a telephone, and the delegation noted that there were two phone booths in each pavilion. As for Požarevac-Zabela Correctional Institution, prisoners had access to pay-phones located outside the buildings, except for the inmates in Pavilion VII, who had to use a telephone installed next to the duty officers' office. In this context, several prisoners complained about the lack of privacy when using the phone; further, it was alleged that prison staff systematically interrupted telephone calls after 5 minutes. At Belgrade District Prison, no access to a telephone was in practice granted to remand prisoners.

**The CPT recommends that the Serbian authorities take steps to improve access to a telephone for prisoners in Pavilion VII of Požarevac-Zabela Correctional Institution, in the light of the above remarks. Further, the Committee invites the Serbian authorities to explore the possibility of offering remand prisoners access to a telephone; if there is a perceived risk of collusion, a particular phone call could be monitored. In addition, the existing legislation should be amended so as to establish a minimum entitlement (i.e. length of each telephone conversation) as regards access to a telephone for prisoners.**

c. discipline/solitary confinement

104. Prison doctors continued to be obliged to certify that inmates are fit for punishment prior to a decision on solitary confinement being taken.

On this issue, the CPT wishes to stress that ensuring there is a positive relationship between medical practitioners working in prisons and prisoners is a major factor in safeguarding the health and well-being of the latter. 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 Rec (2006)2 on the revised 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 deleted. On the other hand, prison doctors should be very attentive to the situation of prisoners placed in disciplinary isolation/segregation cells, and should report to the prison director whenever a prisoner's health is being put seriously at risk by being held in disciplinary isolation/segregation.

**The CPT calls upon the Serbian authorities to review the relevant regulations in line with the recommendation made by the CPT in paragraph 132 of the report on its 2004 visit. As regards the role of prison doctors in relation to disciplinary matters, regard should be had to the revised European Prison Rules (in particular, Rule 43<sup>51</sup>) and the comments made by the CPT in its 15th General Report (see paragraph 53 of CPT/Inf (2005) 17).**

105. As regards hygiene and clothing arrangements for prisoners in solitary confinement, the new LECS and the Rules on Disciplinary Offences, Measures and Procedures against Convicted Persons introduce provisions which are in line with the previous CPT's recommendations on these issues. However, some inmates placed in solitary confinement or disciplinary isolation in Pavilion VII of Požarevac-Zabela Correctional Institution complained that they had not been provided with bedding or allowed to take a shower; moreover, access to outdoor exercise was apparently not guaranteed.

**The CPT recommends that the Serbian authorities take urgent steps to remedy the above-mentioned shortcomings.**

106. At Požarevac-Zabela and Sremska Mitrovica Correctional Institutions, the delegation noted that lying in bed or sleeping during the day continued to be considered as a breach of discipline, despite the fact that such behaviour does not appear on the list of disciplinary offences. **The Committee would like to receive the comments of the Serbian authorities on this subject.**

d. “coercive means”

107. “Coercive means”, which the prison staff are authorised to use with a view to maintaining order and security, are enumerated in Section 129 of the LECS. They include physical force, fixation, separation, rubber truncheons, water hoses, chemical agents and firearms. Pursuant to Section 130 of the LECS, a medical examination must be performed after the use of “coercive means”, and a written report must be submitted for the attention of the prison director. However, at Belgrade District Prison, neither the register on the use of “coercive means” nor inmates' medical files made it possible for the delegation to determine the type of means used and the length of time during which (in particular) fixation and separation had been applied. Further, the doctor interviewed by the delegation at the above-mentioned establishment was not in a position to provide any information on this subject. Various deficiencies were also observed in the recording of the use of “coercive means” in the two other penitentiary establishments visited; in particular, the resort to fixation and the length of application of separation were not always recorded.

108. The CPT understands that it is, on occasion, necessary to use “coercive means” in a prison setting. In those rare cases where resort to such means is required to restrain an agitated or violent prisoner, this should be immediately brought to the attention of a doctor (in order to assess the need for the measure as opposed to certifying the inmate’s fitness for it), and the prisoner concerned should be kept under constant and direct staff supervision. The application of the above-mentioned means should be ceased at the earliest opportunity; they should never be applied, or their application prolonged, as a punishment. A special register should be kept to record all cases in which recourse is had to “coercive means”; the entry should include the times at which the measure began and ended, the circumstances of the case, the reasons for resorting to the measure, and an account of any injuries sustained. This will greatly facilitate both the management of such incidents and the oversight into the context of their occurrence. **The CPT recommends that the Serbian authorities take steps in the light of the above remarks.**

e. complaints and inspection procedures

109. According to Section 114 of the LECS, inmates have the right to submit a complaint to the prison director, who should take a decision within 15 days; if the prisoner does not receive an answer or is not satisfied with the director's decision, he can file a written complaint with the Head of the Administration for the Enforcement of Penal Sanctions, who also has 15 days to react. A prisoner also has the right to make a complaint to an “authorised person who supervises the work of the institution” without the staff or appointed persons being present. Further, persons deprived of their liberty are entitled to submit confidential complaints to the Ombudsman.

The introduction of the above provisions represents an improvement on the complaints procedures in force at the time of the 2004 visit. Prisoners were generally informed of the avenues of complaint available. However, inmates lacked confidence in the complaints procedures and some of them claimed that staff had threatened them with various forms of reprisals in order to prevent them from complaining. **The CPT recommends that the Serbian authorities take appropriate steps to ensure that prisoners lodging complaints are not subjected to reprisals** (see also paragraph 6).

It should be noted that, when met by the delegation, the Ombudsman indicated that he had received several complaint letters from prisoners, which had all arrived in unsealed envelopes. **The CPT invites the Serbian authorities to remind all penitentiary establishments that prisoners' correspondence with the Ombudsman is strictly confidential.**

110. The Serbian legislation provides for two external oversight mechanisms: inspections by the Protector of Citizens (Ombudsman) and, pursuant to Section 278 of the LECS, inspections by a five-member commission of the National Assembly<sup>[52]</sup>. The appointment of the first Ombudsman in July 2007 is an important development, and the CPT hopes that he will soon be in a position to start carrying out visits to places of deprivation of liberty. However, as regards the parliamentary commission, it became apparent during the visit that it had not been established and there was no indication as to whether and when that might happen.

**The CPT invites the Serbian authorities to further develop the system of monitoring of penitentiary establishments by independent outside bodies. In this context, the Committee wishes to stress that, 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.).**

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

### 1. Preliminary remarks

111. The CPT's delegation visited one psychiatric establishment under the authority of the Ministry of Health: the Specialised Neuro-Psychiatric Hospital in Kovin.

The establishment occupies an extensive (12 ha), fenced area in the outskirts of the small town of Kovin, approximately 50 km from Belgrade. Built at the beginning of the 20<sup>th</sup> century as army barracks and subsequently transformed into a psychiatric hospital in 1924, it comprises 15 pavilions with a total surface area of 17,500 m<sup>2</sup>. A few of the buildings have been added in the 1960s and 1970s. With a catchment area covering a third of the territory of Serbia and an official capacity of 1,000 beds, at the time of the visit the hospital was accommodating some 600 adult patients, approximately 230 of whom were women.

Patients were distributed into 12 wards: two acute psychiatric (one for men and one for women); four long-term psychiatric (two for men, one for women and one mixed-gender); a psycho-geriatric ward with two mixed-gender pavilions, and several mixed-gender wards (for neuroses<sup>[53]</sup>, for rehabilitation<sup>[54]</sup>, for alcoholism; for neurological diseases<sup>[55]</sup> and a somatic medicine ward). Further, there was an outpatient ward (“day clinic”) and an admission unit.

At the time of the visit, the hospital was accommodating 7 psychiatric forensic patients and 3 alcoholics undergoing compulsory treatment pursuant to a court order; further, 3 other patients were officially considered as involuntary. Although formally speaking only the two acute psychiatric wards and the psycho-geriatric ward were “closed”, all the wards at Kovin Specialised Neuro-Psychiatric Hospital were locked, and even patients from “open” wards were not free to leave the hospital’s territory unless authorised by the doctors. Thus, the vast proportion of the patients were *de facto* involuntary, even if this was not confirmed by any formal procedure. **The CPT would like to receive the comments of the Serbian authorities on this issue.**

112. The average length of hospitalisation at Kovin Specialised Neuro-Psychiatric Hospital was said to be 100 days. However, due to frequent repeated hospitalisations, some 80% of patients had spent prolonged periods of time at the establishment (occasionally, up to 30 years). Most of these patients had lost their family and social ties and had thus nowhere to go. There were also some patients who – as formulated by one of the staff members – were “just kept” in the hospital, based on an agreement between the establishment and their families (who agreed to pay for the patients’ stay); these patients were mainly accommodated in the somatic ward (see paragraph 127).



113. During the meeting with the Minister of Health at the outset of the visit, the delegation was informed of the Serbian authorities' plans for reforming the sector of psychiatry. A "Strategy for the Development of Mental Health Care" was adopted by the Government in January 2007. It contains a 10-year action plan aiming at the gradual reduction of the size as well as closing down of some of the psychiatric hospitals, and the development of community care (including "supported homes" and services for vocational training and employment for persons with mental disorders). The CPT welcomes these plans and **wishes to encourage the Serbian authorities to implement them as a matter of priority.**

## 2. Ill-treatment

114. Relations between patients and staff at the Specialised Neuro-Psychiatric Hospital in Kovin seemed relaxed and most of the patients spoke highly of health-care personnel. The delegation heard hardly any allegations of physical ill-treatment of patients by the staff.

However, the CPT's delegation heard numerous allegations of inter-patient violence; the existence of this problem was also confirmed by some of the doctors and nurses interviewed by the delegation. It is noteworthy that many instances of applying mechanical restraints had – as was established by the delegation upon examination of the relevant records – as their origin fights between patients. It was clear that, due to the low staff presence (see paragraph 128), nurses and orderlies were having difficulties managing patients. **The CPT recommends that steps be taken to ensure that staff at the Specialised Neuro-Psychiatric Hospital in Kovin 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

115. At the outset of the visit, the director of the Specialised Neuro-Psychiatric Hospital in Kovin informed the delegation of the hospital's difficult financial situation, with the means available covering nothing but current expenses and minor repairs. Indeed, the living conditions at the establishment were generally very poor. At the time of the visit, efforts were being made to renovate the water, heating and sewage installations, but this work was far from being finished and its further financing was uncertain.

116. Conditions were cramped in most of the patients' dormitories (e.g. 25 patients in a dormitory measuring 96 m<sup>2</sup>; 12 patients in a dormitory measuring 42 m<sup>2</sup>). The state of



repair of the wards (especially the long-term male ward) was generally poor, with damaged walls, floors and ceilings, and the level of hygiene left something to be desired. Access to natural light was generally good but artificial lighting was weak; further, the dormitories in a number of wards (in particular, in the male acute and long-term ones) were poorly ventilated. The heating also left something to be desired except in the psycho-geriatric ward, where a new heating installation had been installed recently.

The dormitories contained hardly any other furniture apart from beds, and the bulk of the patients had no lockable space to keep their personal belongings. The only exceptions observed by the delegation were in the mixed-gender long-term ward and the alcoholism ward, where patients had access to lockers or cupboards, to which they had the keys. In general, the material environment in the dormitories was austere and impersonal, save in the long-term female ward, which was attractively decorated with pictures and plants.

In some of the wards there were a few smaller rooms for more autonomous patients. Conditions in these rooms were better than in the rest of the patient accommodation: in addition to beds, the rooms were furnished with tables and lockers, and personalised with posters, plants, private TV's/radios, etc. However, these rooms were also overcrowded (e.g. two patients in a room measuring 7 m<sup>2</sup>; three in a room of 9 m<sup>2</sup>).

117. Conditions were comparatively better at the “Norwegian” ward, refurbished in 2003 by the Norwegian Refugee Council and ECHO<sup>[56]</sup>, and accommodating, at an extra charge<sup>[57]</sup>, 25 patients in smaller rooms offering more privacy. The rooms were well lit, ventilated and heated; that said, living space was far from generous (e.g. a single room measured under 5 m<sup>2</sup>; a double room – 7 m<sup>2</sup>; a room for three patients – 12 m<sup>2</sup>). The beds and bedding were in a better state than on the other wards, there were enough lockers for all patients and efforts were being made to decorate and personalise the rooms.

118. The communal toilet, washing and shower facilities on the wards were invariably in a poor state of repair and cleanliness, and sometimes cold and malodorous. The delegation was informed that patients could take a shower without restrictions; that said, less autonomous patients (especially in the long-term and psycho-geriatric wards), who relied on staff's assistance, could take a shower not more than once a week.

The delegation noted that most of the toilets offered little privacy to patients (they were either unscreened or only partially screened). Further, the toilets in the acute wards were covered by the CCTV monitoring system.

The hospital provided patients with a range of personal hygiene items. Further, special mattresses and diapers were available for the incontinent patients. However, the supply of diapers was apparently not sufficient and nurses took turns to take incontinent patients to the toilet at night.

119. The clothing worn by the patients was generally in an acceptable condition and adapted to the season. However, some patients (especially in the acute wards) were seen walking the whole day in pyjamas; this could be seen as a way of restricting their liberty. The delegation was informed that patients' own clothes were taken from them on admission, and clothes provided by the hospital given to them during their stay at the hospital; their personal clothes were reportedly given back to them upon discharge. In this connection, the CPT would like to 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.

120. The hospital's management was making efforts to offer adequate food to patients. In addition to the budgetary means provided for this purpose, the produce from the establishment's own farm was used to complement the patients' diet. The examination of the menus revealed that meat, fish, fresh vegetables and fruit were included on the menus on a daily basis. Most of the patients interviewed 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.

121. **The CPT recommends that steps be taken at the Specialised Neuro-Psychiatric Hospital in Kovin in order to:**

- **carry out, as a matter of priority, a comprehensive refurbishment programme, in particular with a view to improving artificial lighting, ventilation and heating in the dormitories. In the context of this programme, the possibility of transforming the large-capacity dormitories into smaller structures should be considered;**
- **reduce the occupancy levels in the dormitories;**
- **provide the hospital with new furniture and bedding;**
- **provide patients with lockable space and allow a reasonable number of personal belongings;**
- **refurbish the toilet, washing and shower facilities and maintain them in a clean condition; the toilets should be fitted in a manner allowing patients some privacy, and the CCTV monitoring should be removed from the toilets in the acute wards;**
- **ensure an adequate supply of diapers for incontinent patients;**
- **ensure that all patients benefit from the possibility of taking a shower at appropriate intervals, according to patients' individual needs;**
- **allow patients to wear as far as possible their own clothes during their stay, and abolish the practice of requiring patients from the acute wards to wear pyjamas the whole day.**

122. In pavilion A of the psycho-geriatric ward, the delegation noted that not only the ward but also the patients' rooms were mixed-gender. The explanation for this provided by the staff was that this situation had existed for a long time, and that the patients themselves had got used to it and did not want to change their rooms. In the CPT's view, the clear benefits of a mixed-gender ward should not be to the detriment of privacy. Special precautions are required to ensure that patients are not subjected to inappropriate

interaction with other patients which threaten their privacy; in particular, female patients should have their own protected bedrooms and sanitary areas. **The CPT recommends that the Serbian authorities take measures to ensure that patients accommodated in pavilion A of the psycho-geriatric ward of Kovin Hospital (as well as in all other mixed-gender wards of the establishment) are not subjected to inappropriate interaction with patients of the opposite sex.**

#### 4. Treatment and regime

123. Psychiatric treatment at the hospital was based essentially on pharmacotherapy, which appeared generally adequate. There were no problems with the supply of older-generation psychotropic medication; as regards newer-generation drugs, the supplies were rather limited. The delegation was concerned to learn that many patients were admitted to the hospital's somatic ward because of serious side-effects of psychiatric medication, such as the neuroleptic malignant syndrome<sup>[58]</sup>. **The CPT would like to receive the comments of the Serbian authorities on this point.**

124. The range of other therapeutic options was underdeveloped; for example, only some 10% of patients in the male long-term ward and 35% of patients in the male acute ward participated in psycho-social therapeutic activities. A few patients were following individual and group psychotherapy provided by the hospital's psychiatrists. As for other therapeutic and rehabilitative activities, 25 to 45 patients per day (mostly the same ones) were engaged in activities (e.g. drawing, painting, knitting, sculpture, pottery, carpentry) in a recently opened separate building. The potential of this well-equipped facility was clearly underused due to the lack of qualified staff (see paragraph 128). Further, a few patients performed simple cleaning or repair tasks on a voluntary basis.

On the positive side, health-care staff worked in multi-disciplinary therapeutic teams (under the authority of a psychiatrist), comprising the psychologists, nurses and social workers, and met daily in order to share information and discuss patients' progress. Further, the medical files and other documentation were meticulously kept. However, the delegation noted that there were no individualised treatment plans.

As regards recreational activities, patients could watch television and listen to the radio in the wards' dining rooms, read newspapers and borrow books from the hospital's library and play board games. Occasionally, film projections or theatre shows were organised in a large hall set out for this purpose.

125. **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 the 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 latter, 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 in recreational activities adapted to their needs.**

126. As regards outdoor exercise, the delegation was informed that patients could use the hospital's extensive grounds on a daily basis. However, only a few patients were seen taking outdoor exercise during the visit: for example, staff from the male acute ward told the delegation that only 5 to 15 patients, out of the total of 45, were usually allowed to go outdoors. **The CPT recommends that steps be taken to ensure that all patients at the Specialised Neuro-Psychiatric Hospital in Kovin, whose medical condition so permits, are offered at least one hour of outdoor exercise every day.**

127. Somatic care was provided both by the doctors employed in the hospital and by visiting consultants. 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 accommodated separately from others and were regularly visited by a lung specialist. **The CPT would like to be informed whether the patients concerned received treatment following the DOTS programme.**

The hospital's somatic ward had a capacity of 35 places and usually accommodated 25 to 30 patients. As explained to the delegation, it was in principle serving for treating somatic illnesses and conditions developed in the psychiatric patients during their stay in the hospital<sup>[59]</sup>. That said, the ward accommodated a small number of patients who did not suffer from any somatic disease but had stayed for years on the ward

because, as was explained by the staff, “they would anyway have to stay for a long period in the hospital”. In the CPT’s view, **such an approach is contrary to the management’s declared deinstitutionalisation objective; it serves to support the patients’ long-term stay and impedes timely discharge.**

## 5. Staff

128. At the time of the visit, the hospital employed 23 full-time doctors, including 19 psychiatrists or neuro-psychiatrists, two internal medicine specialists, a neurologist and a biochemistry specialist; further, there were 12 trainee psychiatrists. In addition, several medical specialists visited the hospital at regular intervals (e.g. a radiologist, a lung specialist, a dentist). The medical team was completed by two full-time physiotherapists (one working on the neurology ward, the other on the psycho-geriatric ward). Doctors were assisted by a number of technicians (X-ray, laboratory, hygiene, dietician). The nursing staff comprised 187 full-time nurses; there were no vacant posts for nurses. The nurses had not received specialised training in psychiatry during their studies but were being trained on the job.

After 2 pm and on weekends, there were two doctors on duty for the whole hospital. The nurses worked in three shifts, with one to three nurses per shift on each ward (for 25 to 65 patients).

As regards other staff qualified to provide therapeutic activities, at the time of the visit, there were 6 psychologists, 3 work therapists (one of them working in the outpatient ward) and 3 social workers.

129. To sum up, the psychiatrist/patient ratio at the time of the visit, i.e. 1:20, could be considered as sufficient to meet the hospital's needs. However, the number and attendance hours of the nurses 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.

**The CPT recommends that the Serbian authorities take steps at the Specialised Neuro-Psychiatric Hospital in Kovin to:**

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

More generally, **it is recommended that specialised training – both initial and ongoing – be developed in Serbia for nurses working with psychiatric patients.**

130. The delegation was informed by staff that there were no regular meetings in the hospital allowing the staff to engage in professional discussions, although the establishment's director had apparently recently announced that such meetings would be introduced in the near future. **The CPT trusts that this will happen.**





## 6. Means of restraint

131. Seclusion was not practised at the Kovin Hospital. Further, chemical restraint measures (i.e. sedating medication) were only rarely applied. That said, one of the doctors told the delegation that neuroleptic injections could sometimes be administered as an “educational” and “reprimand” measure, to “remind the patients that what they are doing is not good”. This, in the CPT’s view, is totally unacceptable. **The Committee recommends that staff at Specialised Neuro-Psychiatric Hospital in Kovin be instructed that means of restraint (including chemical restraint) should never be applied as a form of punishment.**

132. As regards mechanical restraints (consisting of attaching patients to their beds with leather belts or straps of soft linen cloth), the delegation was concerned to note that they were used frequently<sup>[60]</sup> and sometimes for prolonged periods (up to 2 days and 19 hours) without interruption. In several cases, the delegation found that the same patient had been repeatedly restrained during the night, for periods of days on end, based on a blanket authorisation issued by the doctor (“until further notice”). **In the CPT’s view, such prolonged and routine restraining can have no therapeutic justification.**

The delegation also noted that, except in the acute wards, mechanical restraints were applied in full view of other patients, who could on occasion be requested to help the staff restrain another patient. **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, and the restraint and supervision of patients should be the exclusive responsibility of qualified health-care staff.**

On the positive side, the delegation was pleased to note the recent introduction of specific registers of the use of mechanical restraint on the wards; the register at the female acute ward was particularly detailed and well kept. **The Committee invites the management of the Specialised Neuro-Psychiatric Hospital in Kovin to ensure that the registers of the use of means of restraint on the other wards are also properly kept.**

133. The CPT wishes to stress once again that the use of restraint measures should be the subject of a detailed and clear written policy for staff working in psychiatric establishments. This policy 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 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 2 hours), and the patient should be under the direct personal supervision of the staff.

The adoption of such a policy 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 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; such a perception would not be surprising given what was already mentioned in paragraph 132. 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.

**The CPT recommends that the Serbian authorities adopt a policy for the use of means of restraint, in the light of the above remarks<sup>[61]</sup>.**

## 7. Safeguards

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>[62]</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>[63]</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 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>[64]</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.**

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.**





## D. Establishments under the authority of the Ministry of Labour and Social Policy

### 1. Preliminary remarks

146. The CPT's delegation visited one establishment under the authority of the Ministry of Labour and Social Policy: the Special Institution for Children and Juveniles in the village of Stamnica (some 11 km from the town of Petrovac-na-Mlavi). The Institution is located on the outskirts of the village and occupies a large (5,5 ha) fenced territory divided in two "zones". The so-called "lower zone" comprises a multi-storey building (the "Block") housing *inter alia* the administration, the pharmacy, the ambulatorium and the ward for bedridden and totally dependent residents (Ward C); further, there are 5 single-storey pavilions (accommodating mostly younger residents) in the "lower zone". On the opposite side of the village street lies the "upper zone" with 6 pavilions.

The Institution was set up in 1964 on the premises of a former miners' settlement. At the time of the visit, it accommodated 456 residents (including 261 males and 195 females)<sup>[65]</sup> as compared with the official capacity of 450. The residents were aged 6 to 80; although the Institution was supposed to accommodate only children and juveniles, most of the residents were adults (the largest group, i.e. 259 residents, was aged 28 to 80<sup>[66]</sup>). All the residents were diagnosed as mentally retarded (including 264 severely, 152 seriously and 40 moderately retarded); many of them had an additional diagnosis of mental disorder (see paragraph 165). Among the residents, 32 were described as bedridden and 56 as semi-bedridden.

The vast majority of residents had spent many years at the Institution<sup>[67]</sup>, and a number had lived there since its opening. Further, the turnover was low<sup>[68]</sup> and the statistics of admissions and releases presented to the delegation demonstrated that the Institution's population had continuously increased until 2006<sup>[69]</sup>. In the absence of specialised outside structures and in view of the fact that most of the residents had lost contact with their families, their discharge was unlikely in the foreseeable future.

147. At the outset of the visit to Serbia, the Deputy Minister of Labour and Social Policy informed the delegation that there were approximately 11,000 persons in such institutions, out of whom some 3,700 minors. The Ministry was currently in the process of elaborating a new policy, aimed *inter alia* at promoting social rehabilitation and integration (especially for children). This policy would find its legal framework in a new Law, which was to be drafted in the near future. The above-mentioned policy would result in closing down some of the existing establishments, re-designing other institutions (by providing apartment-type accommodation) and maintaining a few institutions specialised in the care for the persons with the most serious pathologies.

The overall aim would be to reduce significantly the number of persons in institutional care and to allocate the resources available for the further development of



alternatives to institutionalisation such as assisted apartments (in addition to the 130 already existing flats, 50 new apartments were being built) and community-based support services.

148. On the local level, the director of the Special Institution for Children and Juveniles in Stamnica stated that efforts were made to improve co-operation with the local authorities and to increase the establishment's integration with the local community (e.g. exchange visits were organised with the local elementary school, residents had access to the community's sports facilities, etc). Further, in the framework of a project initiated in 2002 with the assistance of an NGO "People in Need", four houses had been purchased in Petrovac-na-Mlavi and transformed into assisted accommodation for residents. At the time of the visit, 9 residents were already living there, and preparations were underway to accommodate 11 further residents in these flats (see paragraph 155)<sup>[70]</sup>.

That said, it was clear that the lack of sufficient outside facilities prevented the establishment from preparing more residents for a more independent life. It should also be noted that the very size of the establishment was too high and contained in itself the potential for institutionalisation; in this context, the delegation was informed that the long-term plan (until 2012) was to reduce its size to some 300 places.

**The CPT recommends that the Serbian authorities step up their efforts to reorganise the system for provision of care to persons with mental disabilities, including both de-institutionalisation programmes and options for those persons who will not be able to benefit from such programmes.**

## **2. Ill-treatment**

149. The delegation did not hear any allegations of physical ill-treatment of residents by staff of the Special Institution for Children and Juveniles in Stamnica. It was clear that the staff were doing their best to offer care and attention to sometimes challenging residents, under very difficult circumstances. The delegation noted that, in a few cases when instances of physical ill-treatment of residents by orderlies had been discovered during the preceding three years, the Institution's management had reacted in a firm and rapid way, making it clear that it would not tolerate such behaviour<sup>[71]</sup>. The CPT welcomes this approach.

150. The delegation did observe instances of inter-resident violence (punches and slaps), mainly in the pavilions located in the "upper zone" of the Institution. This was hardly surprising, in view of the severe overcrowding and low staffing levels (see paragraph 171).

The authorities' obligation to care for residents includes responsibility for protecting them from other residents who might cause them harm. This means in particular that staff should be alert to residents' behaviour and be both resolved and properly trained to intervene when necessary. Likewise, an adequate staff presence should be ensured at all times, including at night and weekends. Further, appropriate arrangements should be made for particularly vulnerable residents, by taking care, for example, not to accommodate them or leave them alone with residents identified as behaving in an aggressive manner. **The CPT recommends that the Serbian authorities take the necessary measures in the light of the above remarks to protect residents at the Special Institution for Children and Juveniles in Stamnica from other residents who might cause them harm.**

151. It should also be stressed that, although not constituting deliberate ill-treatment, **the combination of severe overcrowding, lack of staff and lack of stimulation/activities at Pavilions 1 to 6 (the "upper zone") of the Special Institution in Stamnica resulted in living conditions that could be considered as amounting to inhuman and degrading treatment.**

152. During the visit to the Institution in Stamnica, the delegation came across the case of resident A. (17 years old).

The resident concerned had arrived at the Institution two months previously, and staff drew the attention of the delegation to the fact that he bore signs of injuries. The delegation's medical members examined the resident and observed multiple scars on his upper back. The scars were similar in shape and size, leaf shaped, 3 x 1 cm, with hypotrophied, brownish skin, thinner than his skin, with sharp borders, and some of them, but not all, in a shoe-sole like pattern. Staff explained to the delegation that the resident concerned had sustained these injuries during his stay at the Special Prison Hospital in Belgrade, preceding his admission to the Institution.

The delegation examined the medical record of the resident and noted that he had been admitted to the Institution on 29 September 2007, following a request from his mother. The establishment's health-care staff acknowledged that they had seen the scars on his arrival; however, this was not noted in his medical file. The resident's social file contained information that he had previously spent two months at the Special Prison Hospital in Belgrade, following his mother's complaint of sexual assault. While at the prison hospital, his condition had become worse and he had been *inter alia* diagnosed with haemolytic anaemia, urinary infection and bed sores; however, the documentation from the hospital did not mention any injuries on his back.

A more detailed examination of the resident's file revealed that, between his stay at the Special Prison Hospital and admission to the Institution in Stamnica, he had been hospitalised (from 19 March to 10 May 2007) at the internal medicine ward of a civil

hospital in Smederevo, following which he had stayed at home from May to September 2007. The discharge letter from the civil hospital did not mention any injuries.

The delegation contacted the Centre for Social Work (CSW) in Smederevo, which had been in charge of the resident's placement; staff from the CSW expressed the view that his injuries had originated in the prison hospital and were due to his having been beaten by fellow prisoners at the somatic ward. The delegation returned to the Special Prison Hospital in order to gain more information on the case of A. His medical record at the prison hospital confirmed that he had been placed there following a court order to assess his criminal responsibility from 17 January to 16 March 2007, initially at the assessment ward (17 to 22 January 2007). His diagnosis was "*anaemia gravis, cachexia, inf. tracti urinarii*", and "*retardatio mentalis*" (corresponding to the mental age of a 2-years old child). A.'s medical record showed that he had been frequently restrained during his stay at the prison hospital, due to his agitation and violent behaviour; further, the doctor and nurse from the somatic ward remembered that he had been loud and screaming at night and acknowledged that it was not impossible that fellow prisoners had ill-treated him to silence him. However, neither his medical record nor the nurses' logbook contained any mention of injuries sustained by A.

153. The above-mentioned case is of grave concern for the CPT, as it demonstrates the failure of the staff and management of two establishments (the Special Prison Hospital and the Special Institution for Children and Juveniles in Stannica) to duly record injuries observed on a patient/resident and to report these to the competent judicial authorities. Further, the Committee has difficulty in understanding why A. had to spend two months in a prison hospital, sharing his room with prisoners who were (*a priori*) neither mentally ill nor learning disabled. It is very likely that, during this stay, he was at serious risk of being subjected to inter-patient violence, not the least while being restrained. Naturally, it cannot be excluded that A. sustained his injuries while at home in the period from 10 May to 25 September 2007; however, the competent authorities should have carried out an inquiry into the circumstances in which his injuries were sustained, especially in view of the already existing suspicion that the injuries might have been sustained at the Special Prison Hospital (see above). **The CPT recommends that such a thorough inquiry be carried out without delay, and its results transmitted to the Committee in due course.**

Further, **the CPT recommends that doctors at the Special Institution for Children and Juveniles in Stannica be instructed to systematically record in writing all injuries observed on newly-admitted residents. Whenever possible (taking into account the residents' condition), the doctors should request residents to provide an explanation about the circumstances in which the injuries had been sustained. These explanations should also be recorded, together with the doctor's conclusions on the degree of consistency between the resident's explanations and the doctor's objective medical findings. Whenever injuries are recorded which are consistent with allegations of ill-treatment made (or, if the resident is not capable of making a statement due to his condition, whenever the type and character of injuries suggest**

that they might have resulted from ill-treatment), the record should be systematically brought to the attention of the competent prosecutor.

### 3. Residents' living conditions

154. It should be noted at the outset that the state of repair and cleanliness of the resident accommodation areas at the Special Institution for Children and Juveniles in Stamnica was generally good, which was quite remarkable given the presence of numerous incontinent residents (see also paragraph 159). Further, the residents' dormitories enjoyed good access to natural light and were adequately lit, (generally) well ventilated and heated.

155. The best living conditions were observed in the so-called "French" pavilion<sup>[72]</sup> (located in the "lower zone"), containing Wards A1, A2, B1 and B2. The pavilion's 80 residents (boys and girls) were aged 6 to 18 and were mostly diagnosed with the Down syndrome. They lived in rooms for 5 residents each measuring some 25 m<sup>2</sup>; thus, there was no problem of overcrowding. The rooms and the common areas were well furnished and pleasantly decorated, with a lot of visual stimuli, pictures, toys, etc.

Pavilion C in the "lower zone" accommodated a group of 11 female residents who were being prepared for a transfer to assisted apartments in Petrovac-na-Mlavi (see paragraph 150). Their living conditions could be described as generally good. The two bedrooms were not overcrowded (they measured in total some 60 m<sup>2</sup>) and the pavilion was furnished in a home-like manner (including a pleasant living room with sofas, a table, a TV/hi-fi installation, and a small kitchen and bathroom). Pavilions D, E and F in the "lower zone" (all mixed-gender) had a similar layout and equipment (including wardrobes and lockers); however, they were overcrowded (e.g. 14 residents in a room measuring 30 m<sup>2</sup>; 9 residents in a room of approximately 31 m<sup>2</sup>). Further, there were more residents than beds in the three above-mentioned pavilions<sup>[73]</sup>, which obliged some of the residents to share beds. This is totally unacceptable.

156. The material environment could be considered as generally acceptable in the mixed-gender Ward C in the "Block", accommodating 96, mostly bedridden and semi-bedridden residents. Similar to the "French pavilion", dormitories and common areas of this ward were well kept, bright and airy, nicely decorated, with a lot of toys in evidence. The Block also housed a small living unit (Ward D), which was accommodating 10 more able male residents (who were considered as potential "candidates" for a transfer to assisted apartments); living conditions at this ward would be quite adequate (well lit and ventilated, clean rooms with beds, tables, chairs and lockers), were it not that the certified occupancy of the rooms was too high.

157. Of all the buildings in the “lower zone”, the least favourable living conditions were observed at the mixed-gender Pavilion A, which accommodated 27 older and more severely disabled residents. Although it was less overcrowded than pavilions D, E and F<sup>[74]</sup>, the overall impression was that of an austere and impersonal environment. Further, the state of repair and cleanliness of the accommodation areas and the toilets left something to be desired, and there was an unpleasant smell of urine in the corridor.

158. The “upper zone” of the Institution in Stannica contained 6 pavilions accommodating older residents, most of them with a long history of stay at the establishment. The pavilions had the potential of offering decent living conditions: transformed from former miners’ houses, each of them had two to four bedrooms, a common dayroom, a bathroom and a small kitchenette. All the pavilions in the “upper zone” had been refurbished in the period 2002 – 2003, and some efforts to decorate them was visible (pictures, curtains, plants, etc).

However, overcrowding in Pavilions 1 to 6 was so severe that it neutralised all the positive aspects mentioned above. By way of example, Pavilion 1 accommodated 25 male residents having to share 17 beds; Pavilion 3 – 27 men sharing 19 beds; and 26 male residents from Pavilion 6 had 18 beds to sleep on. Beds in the dormitories were placed so close to each other that it was difficult to pass by them. The delegation measured the available living space in Pavilion 3 and obtained the following results: the total surface area was 106 m<sup>2</sup> (i.e. under 4 m<sup>2</sup> for each of the 27 residents); the actual living area (bedrooms, dayroom and bathroom) measured some 76 m<sup>2</sup>, i.e. 2,8 m<sup>2</sup> per person; the dayroom (occupied by most of the residents during the day) measured 15.6 m<sup>2</sup>, offering thus 0,7 m<sup>2</sup> of living space per resident. In these conditions, it was hardly surprising that most of the pavilions were damp and malodorous (although clean).

159. The Institution’s sanitary facilities (toilets, washrooms and showers) were generally in an acceptable state of repair and cleanliness<sup>[75]</sup>, with the best standard observed in the “French” pavilion and in Pavilion C. That said, the toilets and showers offered little privacy to residents.

Residents wore clothes which were appropriate for the season and clean, although not really personalised (residents were receiving whatever clothes returned clean from the laundry). The clothes and the bedding were washed frequently (according to the needs of each resident) in two sufficiently equipped laundry facilities. However, the delegation was informed that the supplies of diapers for some 200 incontinent residents were not always sufficient.

160. The delegation’s observations on the spot (including a study of the menus and food stocks) suggested that residents received adequate food in both qualitative and quantitative terms. The Institution’s central kitchen was well equipped and had recently been partially refurbished. Further, the delegation noted that the residents’ weight was regularly checked and a medical intervention and a follow-up carried out if required.

161. As already mentioned (see paragraph 8), at the end of the visit, the delegation made an immediate observation, in pursuance of Article 8, paragraph 5, of the Convention, and requested the Serbian authorities to provide the Committee, within 3 months, with a detailed action plan, comprising precise deadlines and financial resources,

to reduce significantly the population of the Institution in Stamnica, so as to ensure, as a strict minimum, that every resident has his own bed.

The Serbian authorities informed the CPT of the measures taken in their letter of 7 March 2008. Among other measures, a decision had been taken to stop admitting new residents to the Institution as from 1 March 2008. Further, steps have been planned to reduce the Institution's population, with the objective of transferring 10% of juvenile residents and 5% of the adult and elderly residents to assisted apartments by 30 November 2009. At the same time, 10% of the adult and elderly residents would be transferred to newly-created specialised institutions for elderly residents suffering from severe learning disability, and 2% of the residents would be returned to their homes.

The Serbian authorities also informed the CPT that, pending the fulfilment of the above-mentioned objectives, urgent steps had been taken to provide every resident with his/her own bed (and that this is the case at present). It is also noteworthy that a decision had been taken to make available the sum of 35 million RSD with a view to building and furnishing new pavilions in the "upper zone" of the Stamnica Institution, with a total capacity of 110 beds. The aim of this measure (which was to be implemented by 31 March 2009) was to ensure that all the residents from the "upper zone" are offered decent living conditions (and not to increase the Institution's total capacity).

162. The CPT welcomes the above-mentioned measures **and would like to be informed, in due course, of their implementation.** Further, **the Committee calls upon the Serbian authorities to persevere in their efforts to create living conditions at the Special Institution for Children and Juveniles in Stamnica which are conducive to the treatment and well-being of residents and provide a positive educational and therapeutic environment and, in so doing, to take into account the remarks set out in paragraphs 154 to 160.**

In addition, **the CPT recommends that steps be taken at the Special Institution for Children and Juveniles in Stamnica to:**

- **ensure that Pavilion A and Pavilions 1 to 6 are properly ventilated and kept clean;**
- **provide adequate supplies of diapers for incontinent residents;**
- **modify the design of the toilets and showers, so as to offer some privacy to residents;**
- **improve the decoration in Pavilion A.**

163. The delegation was informed that a new accommodation building (with a living surface of some 850 m<sup>2</sup>) was under construction. According to the staff, the plan was to



transfer some of the juvenile residents with Down syndrome there, in order to offer them more living space (the opening of the new building was not supposed to increase the Institution's overall capacity). Reportedly, accommodation in the new building was to be based on rooms for 3 persons each, with their own bathrooms. It was planned to bring the new building into service in April 2008. **The Committee would like to receive, in due course, more detailed information about the new building (envisaged capacity, function, date of entry into service, etc.).**

#### 4. Care of residents

164. The delegation was informed by the Institution's visiting neuropsychiatrist (who came to the establishment once a week and more often if required) that approximately 170 residents suffered from epilepsy and some 300 had a psychiatric diagnosis (mostly schizophrenia<sup>[76]</sup>); they were regularly receiving psychiatric medication. In particular, antipsychotic medicines (neuroleptics) were prescribed to numerous residents from the "upper zone", mostly in full doses normally used to treat psychosis. The majority of these residents took this medication in addition to other psychoactive medicines, often barbiturates used both as a sedative and as an anti-epileptic.

The CPT wishes to stress that barbiturates are generally considered outdated, and are not normally used anymore. Further, the use of these substances as sedatives in full/normal dosages, in addition to a mental and physical handicap, can increase the disability and decrease the functioning of the residents concerned. **The CPT would like to receive the comments of the Serbian authorities on this subject.**

Concerning the supply of psychiatric medication, the delegation was informed that it had improved recently, but was still not optimal. In particular, medication had to sometimes be modified in the course of the treatment due to interruptions of supplies; this inevitably had a negative impact on the condition of the residents concerned. Further, the neuropsychiatrist told the delegation that supplies had to be occasionally redistributed between the wards/pavilions, as "some residents needed it more than others". **The CPT recommends that urgent steps be taken to ensure adequate and uninterrupted supplies of the necessary psychiatric medication at the Special Institution for Children and Juveniles in Stannica.**

165. As regards somatic care, it was provided by the Institution's general practitioner (see paragraph 171) and specialists (an internal medicine specialist, a gynaecologist and a lung specialist) visiting the establishment once a month (more often if required). Residents in need of specialist treatment could also be transported to the health centre in Petrovac-na-Mlavi or to a hospital. Upon admission to the Institution, all residents were seen by the GP, the psychiatrist and – in the case of children – by a paediatrician. The initial medical examination comprised a throat and nose smear analysis, an analysis of the faeces and urine, tests for syphilis and hepatitis (A, B and C)<sup>[77]</sup>, and an X-ray of the



thorax (to detect tuberculosis<sup>[78]</sup>). The medical files and other medical documentation were well kept and their confidentiality respected.

The Institution was visited by a dentist twice a month; however, there was no properly equipped dental cabinet and only emergency treatments (extractions) were performed at the establishment. For any other treatments, residents had to be transferred to the health centre in Petrovac-na-Mlavi. It was clear that much remained to be done in this respect as many residents had a poor dentition (i.e. missing teeth). **The CPT recommends that the Serbian authorities step up their efforts to improve dental care for residents at the Special Institution for Children and Juveniles in Stamnica, including access to conservative dental treatment.**

166. Concerning the programme of therapeutic and rehabilitative activities for residents, the delegation observed the staff's commendable efforts to increase the autonomy of a small number of residents, in particular those accommodated in *assisted apartments* and in *Pavilion C* (see paragraphs 148 and 155). These residents were, since recently (May 2007), offered individualised treatment plans (to be reviewed every 6 months), the aim of which was to prepare them for independent or at least autonomous living. The plans comprised long-term goals of developing residents' capacity to fulfil their everyday needs (personal hygiene, communication, housework, dealing with money, shopping, etc.).

Although not based on an individualised approach, the range of therapeutic activities offered to residents in the "*French*" pavilion and in *Wards C and D* in the "Block" was also quite satisfactory: it involved teaching of life skills (how to dress, maintain personal hygiene, communicate, etc) and – from 9.30 am to 1.00 pm every working day – occupational activities in a well-equipped building containing "creative workshops" (drawing, knitting, weaving, sewing, embroidery, pottery, etc), as well as music and dance. Further, it was planned to purchase new IT equipment adapted for the needs of learning disabled persons; 23 children aged 6 to 12 would be trained there.

That said, the delegation noted that basic elementary level education was not provided, despite the fact that some of the residents could have easily benefited from it. It should be added that a small number of residents from the "lower zone" helped with cleaning and in the laundry.

By contrast, residents accommodated in the *other pavilions* (especially Pavilion A and Pavilions 1 to 6) had basically no organised activities; their treatment was essentially limited to pharmacotherapy (see paragraph 164). Their "individual plans for protection" (established for one year and prolonged each time) were stereotyped and usually consisted of just one sentence: "work engagement in the pavilion and personal hygiene, as well as hygiene of the premises". Several residents in Pavilions 1 to 6 were seen displaying severe rocking behaviour – a clear sign of insufficient stimulation and attention. The CPT is aware of the fact that most of the residents from the "upper zone" are severely disabled; nevertheless, at least some of them could develop if provided with sufficient stimulation.

167. In the immediate observation referred to in paragraph 8, the delegation requested the Serbian authorities to inform the CPT of precise steps envisaged in order to enlarge the offer of therapeutic and rehabilitative activities at the Institution in Stannica, in particular for the residents in the establishment's "upper zone".

In their letter of 7 March 2008, the Serbian authorities informed the Committee that individual treatment plans would be established for all residents by 31 May 2009, with a particular focus on the residents from the "upper zone" (for whom the plans would be drawn up as a matter of priority, by 31 March 2009 at the latest); a sum of 30,000

EUR had been set aside in order to request outside experts (both national and international) to assist the staff of the Institution in drafting these plans. Further, a special training programme for the staff, to implement individual treatment plans for adult and elderly residents, would be carried out before 31 March 2009; a sum of 10,000 EUR had been allocated for this purpose.

The CPT welcomes these steps. That said, **the Committee recommends that funding be provided not only for the drawing up of treatment plans and the training of staff but also for implementing those plans. Further, the CPT recommends that increased efforts be made to involve all residents at the Special Institution for Children and Juveniles in Stamnica in activities adapted to their needs. Particular attention should be given to developing programmes of therapeutic and rehabilitative activities with a view to improving the quality of life of residents, as well as resocialisation programmes preparing residents who have the potential to live in the community for discharge. Achieving this goal will require recruiting more qualified staff** (see paragraph 172).

168. The delegation was very concerned to note that most of the residents from the “upper zone” of the Special Institution in Stamnica did not go outdoors regularly, as they were not able to do so without assistance. Staffing levels and presence in Pavilions 1 to 6 (see paragraph 172) were clearly insufficient to help the residents in need of support to take the stairs or (for those dependent on wheelchair transport) the steep access ramps to the pavilions. Consequently, only 5 residents could be taken outside at a time, and even that was only possible with much staff effort, leaving the other residents without care in the meantime. It is noteworthy that, when asked about outdoor time, residents from the “upper zone” gave no answers except reference to the above-mentioned occasional summer excursions. **The CPT calls upon the Serbian authorities to take steps to ensure that all the residents from Pavilions 1 to 6 of the Special Institution in Stamnica have the possibility to spend a reasonable time outdoors every day.**

169. As for recreational activities, residents had free access to dayrooms equipped with a TV set (sometimes also a DVD and a hi-fi installation) and some board games; further, during the day, residents in the “lower zone” could use outdoor, well equipped and pleasantly decorated playgrounds. In addition, occasional sports competitions (with children from the village school), visits to the local cinema and swimming pool, excursions to the seaside and to the mountains, and celebrations of national and religious holidays were organised.

170. During the visit, the delegation was informed by the staff of the Institution in Stamnica that there were a few residents who maintained sexual relations. The management’s approach to this issue was to approve and allow such relations, provided they were consensual. With regard to the possible pregnancies in such cases, the policy was to carry out abortions after evaluation of each case by the Ethical Committee in

Belgrade. The CPT is seriously concerned by the situation, in view of the numerous ethical and legal issues involved (among others, the issue of residents' capacity to express consent to sexual relations and to eventual abortions), **the CPT would welcome the comments of the Serbian authorities on the above-mentioned subject.** Further, **the Committee would like to receive more detailed information on the precise mandate and *modus operandi* of the Ethical Committee referred to above.**

## 5. Staff

171. The Institution's full-time staff consisted of the director (who was a defectologist<sup>[79]</sup>), a general practitioner, 5 defectologists, 10 work therapists, 2 occupational instructors, a social worker, a laboratory technician, a sanitary technician, 23 nurses and 100 orderlies ("nursing assistants", who had received some training on how to take care of persons with special needs); one post of a full-time GP was vacant. The normal working hours of the care staff was from 8.00 am until 2.00 pm. After this (and on weekends), there were 3 nurses for the whole establishment and one orderly per ward/pavilion. As already mentioned (see paragraph 165), residents also had access to outside medical specialists.

172. The current staffing levels at the Special Institution in Stannica do not allow the necessary attention and stimulation to be offered to all the residents; this was also acknowledged by the establishment's director and the GP. It is particularly true with respect to the "upper zone", where the entire care team consisted of a defectologist, a nurse and 6 orderlies (for a population of nearly 200, mostly seriously disabled residents); it is striking that no work therapist was assigned to the "upper zone".

As already mentioned, at the end of the visit the delegation invoked Article 8, paragraph 5, of the Convention and requested the Serbian authorities to provide the CPT, within 3 months, with a detailed action plan aimed *inter alia* at increasing the number of care staff working in direct contact with residents at the Institution in Stannica. In their letter of 7 March 2008, the Serbian authorities informed the Committee that a decision had been taken (and necessary financial resources allocated) to recruit a psychologist and six additional nurses (to work in the Institution's "upper zone") by 30 June 2008; another five nurses would be recruited by 1 January 2009.

The CPT welcomes these positive developments. **The Committee recommends that steps also be taken at the Special Institution for Children and Juveniles in Stannica to increase the number of other categories of care staff working with residents (special educators, work therapists, social workers, etc).**

It should also be noted that staff worked in multi-disciplinary teams and met regularly to discuss the residents' progress; this represents a good basis for the full implementation of the CPT's recommendations concerning the care of residents (see paragraph 167) and for speeding up the deinstitutionalisation process.



## 6. Means of restraint

173. The Institution's neuropsychiatrist stressed that means of mechanical restraint (i.e. bandages or dressing gauze) were only applied upon his written authorisation and in order to control involuntary movements or aggressive behaviour; fixation was never used as punishment. That said, the delegation was very concerned to note that the doctor's authorisation was often of a blanket, general nature ("when necessary") instead of being specific to each particular instance.

Further, the CPT is of the view that the use of fixation could be reduced if there were adequate numbers of staff on the wards/pavilions. The delegation also noted that residents were usually restrained in their beds in full view of other residents (and sometimes with their help), with little staff supervision.

Another consequence of the serious lack of staff was that chemical restraint (i.e. using psychoactive medication for behavioural control) was widespread. The delegation was also concerned by the fact that the recording of the use of restraint (both mechanical and chemical)<sup>[80]</sup> was insufficiently detailed (e.g. the exact times of the beginning and end of the measure were often missing), and that there was no specific register for the use of restraint. Moreover, there was no written operational policy on resort to restraint and no special training for the staff.

174. The CPT understands that, on occasion, there may be a need to restrain residents to protect themselves or others and, *exceptionally*, to resort to instruments of mechanical restraint. However, it is essential that the restraint of residents be the subject of a clearly-defined policy. That policy should state that initial attempts to restrain agitated or violent residents should, as far as possible, be non-physical (e.g. verbal instruction) and that where physical restraint is necessary, it should in principle be limited to manual control. Further, alternatives to restraint should be actively looked for by the staff together with the residents.

Resort to mechanical restraint shall only very rarely be justified and must always be either expressly ordered by a doctor or immediately brought to the attention of a doctor with a view to seeking his approval. If, exceptionally, recourse is had to instruments of mechanical restraint, they should be removed at the earliest opportunity. Residents subject to means of mechanical restraint should, at all times, have their mental and physical state continuously and directly monitored by a member of the health-care staff. Further, mechanical restraint should be applied exclusively by care staff (nurses or orderlies) and should never take place in the presence of other residents.

The adoption of a policy on the use of restraints should be accompanied by practical training, which must involve all staff concerned (doctors, nurses, orderlies, etc.) and be regularly updated. Residents should also be duly informed of the establishment's restraint policy as well as the existing complaints mechanisms in this respect. Further, every instance of restraint of a resident (manual control, mechanical or chemical

restraint) should be recorded in a specific register established for this purpose (as well as in the resident's file)<sup>[81]</sup>.

The entry should include the times at which the measure began and ended, the circumstances of the case, the reasons for resorting to the measure, the name of the doctor who ordered or approved it, and an account of any injuries sustained by residents or staff. This will greatly facilitate both the management of such incidents and an oversight as to the frequency of their occurrence.

**The Committee recommends that the Serbian authorities adopt a policy on the use of means of restraint at the Special Institution for Children and Juveniles in Stamnica, in the light of the above remarks.**

## **7. Safeguards**

175. The delegation was informed that the placement of residents at the Special Institution in Stamnica took place upon a motion by the Centre for Social Work (CSW), introduced following a request by the resident's relatives or legal guardian, and after an assessment performed by the CSW's expert team (composed of a psychologist, a special educator, a lawyer and a social worker); in addition, the admission had to be preceded by an assessment of the person's "degree of retardation" by an "allocation committee", comprising two neuro-psychiatrists, a general practitioner, a psychologist, a special educator and a social worker. As a prerequisite for placement, the person concerned had to be deprived of his legal capacity (see, however, paragraph 179). Upon admission, the CSW or the relatives (whichever were the guardian) signed a contract with the Institution whereby, in return for a monthly fee, the establishment was to care for and treat the resident. The Institution also undertook to submit a yearly report to the guardian.

In the CPT's view, placing legally incompetent persons in a specialised institution based on the request of the guardian deprives such persons of essential procedural safeguards. Although such a placement may go against the expressed will of the resident and the person cannot leave the institution without permission from the guardian, it is still considered "voluntary" under the Serbian law. From the facts found during the visit, it is clear that in most cases the placement in the Specialised Institution for Children and Juveniles in Stamnica (and, more generally in all other specialised institutions for persons with mental disabilities) led to a *de facto* deprivation of liberty. It follows that persons placed in a specialised institution should have the right to bring proceedings by which the lawfulness of their placement could be decided speedily by a court<sup>[82]</sup>. The delegation's observations from the visit indicated that, in practice, such a right is not ensured at present.

**The CPT recommends that steps be taken without delay to ensure that persons placed in the Special Institution for Children and Juveniles in Stamnica (as well as in all other specialised institutions in Serbia) have the effective right to bring proceedings to have the lawfulness of their placement decided by a court. Further, the Committee recommends that the existing placement procedure be amended in**

**such a way as to introduce an automatic notification to the competent court – with a view to seeking the court’s approval – of all decisions to place a person in a specialised institution against the person’s will (or at the instigation of the person’s guardian).**

176. It is also axiomatic that placement in a specialised institution should cease as soon as it is no longer required by the resident’s condition. Consequently, the need to continue placement should be reviewed at regular intervals. As far as the delegation could ascertain, such a regular review mechanism does not exist in Serbia. **The CPT recommends that the existing legislation be amended so as to introduce a mechanism of regular review of placement in specialised institutions (such as the Institution in Stannica). Further, residents themselves should be able to request at reasonable intervals that the necessity to continue the placement be considered by an independent authority.**

177. As already mentioned, all residents admitted to special institutions (such as the Institution in Stannica) must, according to the legislation in force, be deprived of their legal capacity and should have a legally appointed guardian (see, however, paragraph 179). Two main legal texts contain the majority of guardianship provisions: the Law on Family (LF) and the Law on Non-Contentious Procedure (LNCP); some provisions on this matter can also be found in the Law on Health Care (LHC).

The court procedure for the deprivation of legal capacity is initiated on the request of the person’s relatives or the CSW (Section 32 of the LNCP). The person concerned must be examined by at least two doctors with an expertise in mental disability (Section 38 of the LNCP), and the court may hear the person (if he is considered capable of understanding the proceedings), his temporary guardian appointed by the CSW and the applicant. The court may decide to deprive a person fully or partially of his legal capacity<sup>[83]</sup>; an appeal against this decision must be made within 15 days (Section 40 of the LNCP). There are, as far as the delegation could ascertain, no specific provisions and no practical arrangements ensuring access to legal assistance for the persons concerned in the context of the procedure for deprivation of their legal capacity.

Within 30 days from the reception of the court decision, the CSW must appoint a permanent guardian<sup>[84]</sup>; in practice, it is usually a relative or a social worker employed by the CSW. The decision by the CSW to appoint a guardian can be appealed against to the Minister of Labour and Social Policy<sup>[85]</sup>. Once a person has had his legal capacity removed by the court, there are no automatic reviews. The court may, upon its own motion or upon that of the person who initiated the original proceedings, examine whether to revoke its decision. However, the delegation was informed at the Special Institution in Stannica that such cases occurred extremely rarely.

**The CPT recommends that the relevant legislation be amended so as to ensure that all decisions on deprivation of legal capacity are subjected to a regular court review. Further, the Committee recommends that the Serbian authorities take**



**the necessary steps to ensure that all persons who are the subject of proceedings with a view to being deprived of their legal capacity are systematically heard in person by the court, given a copy of the court decision and informed, verbally and in writing, of the possibility and modalities for appealing against a decision to deprive them of their legal capacity.**

**The legal provisions currently in force should also be amended so as to put in place the right for the persons concerned to initiate the procedure for the review of the court decision on deprivation of their legal incapacity. Steps should be taken to ensure that persons concerned have effective access to legal assistance in the context of the above-mentioned procedures.**

Reference can also be made here to the Recommendation Rec(99)4 of the Committee of Ministers of the Council of Europe concerning the Legal Protection of Incapable Adults, containing *inter alia* 28 principles concerning guardianship. **The CPT recommends that the Serbian authorities incorporate the above-mentioned principles into the legislation governing guardianship.**

178. The law currently in force imposes on a special institution an obligation to notify the CSW if a doctor gains a suspicion that a guardian is not acting in the resident's best interests (Section 35 (2) of the LHC). Further, the CSW has the duty to monitor the guardian's acts<sup>[86]</sup>. However, it appeared during the visit to the Special Institution in Stamnica that guardians often neglected their responsibilities and made little effort to visit the residents or to scrutinise the care being offered. **The CPT recommends that the relevant authorities take the necessary steps to ensure that legal guardians fulfil their duties responsibly and in the interests of the residents.**

179. The delegation was informed that, before a resident admitted as a juvenile has turned 18 (and provided the establishment's internal commission was of the view that he should remain at the Institution), the CSW was contacted with a view to initiating the procedure of deprivation of his legal capacity. However, the delegation found in the files of several residents that there had been long delays (up to several months) in this procedure; meanwhile, adult residents were held at the Institution without any attempt to obtain their consent to the continuation of their placement. **The CPT would like to receive the comments of the Serbian authorities on this issue.**

Further, the delegation noted that the status (voluntary/involuntary, competent/incompetent) of 123 residents (mostly admitted more than 20 years ago) was unclear, which could *de facto* amount to deprivation of liberty without any legal basis. In addition, 96 elderly residents did not have a legally appointed guardian, despite this being required by the law (see paragraph 177); these persons were also "technically" involuntary residents, as no attempts had ever been made to obtain their consent to placement. The Institution's management was trying to eliminate these lacunas, its declared objective being to clarify the legal situation of all residents before the entry into

force of the new Law on Health Insurance (expected in March 2008). **The CPT would like to receive confirmation that the above-mentioned objective has been reached.**

180. The delegation was informed at the Special Institution in Stamnica that residents could send complaints to the CSW and to the Ministry of Labour and Social Affairs; however, there was no possibility to complain to any authority independent of the social care system. Further, residents were not provided with any information about their legal rights. **The CPT recommends that steps be taken to ensure that residents are informed of their rights and possibilities to lodge formal complaints, on a confidential basis, with clearly designated outside bodies. This information should form part of the contracts signed by residents or their legal guardians. Residents unable to understand the contracts should receive appropriate assistance.**

As regards inspection mechanisms, the Institution in Stamnica received internal inspections from the Ministry of Labour and Social Affairs. Further, the establishment had been visited by NGOs and could be inspected by the Ombudsman. The CPT welcomes these possibilities and **invites the Serbian authorities to introduce a firm legal basis for regular visits to the Special Institution for Children and Juveniles in Stamnica (as well as all other specialised institutions in Serbia) by bodies which are independent of the social care authorities.**

181. Staff of the Institution in Stamnica were making efforts to help residents maintain contacts with their relatives. There were no restrictions on visits<sup>[87]</sup> and correspondence. The Committee welcomes this approach. As regards access to a telephone, it was also in principle unrestricted; however, there was only one payphone (located near the main entrance to the establishment), which cannot be considered sufficient for the number of residents accommodated in the Institution. **The CPT invites the Serbian authorities to improve the possibilities for residents of the Special Institution in Stamnica to make telephone calls.**

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## **APPENDIX I**

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

#### **Co-operation**

##### comments

- the Serbian authorities are requested to ensure that, in the future, information on the CPT's mandate and powers is disseminated to all the authorities and staff concerned, and that visiting delegations are supplied on time with credentials which spell out this information (paragraph 5);
- the Serbian authorities are requested to take all necessary measures to prevent any repetition of acts of the kind referred to in paragraph 6 of the report during future CPT visits (paragraph 6);
- any kind of intimidating or retaliatory action against a person before or after he/she has spoken to a delegation of the Committee would be totally incompatible with the obligations of Parties to the Convention (paragraph 6).

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

##### **Preliminary remarks**

##### recommendations

- the Serbian authorities to finalise as soon as possible the reform of the legislative framework for deprivation of liberty by law enforcement agencies. All law enforcement officials should be given appropriate training on the new laws and their practical implications (paragraph 12).

##### requests for information

- clarification of whether the periods of 4 and 8 hours (mentioned in Section 226 of the Code of Criminal Procedure) are included in the 48-hour period by which a detained person has to be brought before an investigating judge (paragraph 11).

### **Ill-treatment**

#### recommendations

- any non-standard issue objects to be immediately removed from all police premises where persons may be held or questioned. Any such items seized during criminal investigations should be entered in a separate register, properly labelled (identifying the case to which they refer) and kept in a dedicated store (paragraph 15);
- police officers already in service to receive systematic ongoing training based on the new curriculum (paragraph 16);
- appropriate action to be taken by judges whenever there are indications that ill-treatment by the police may have occurred, as recommended in paragraph 40 of the report on the CPT's 2004 visit. If necessary, the relevant legislation should be amended accordingly (paragraph 19);
- the record drawn up following the medical examination of newly-arrived remand prisoners to 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, the record should be systematically brought to the attention of the relevant prosecutor. Further, the results of every examination, including the above-mentioned statements and the doctor's conclusions, should be made available to the remand 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 20).

#### comments

- continued determined action is needed to combat ill-treatment by the police; in particular, all allegations or other indications of physical ill-treatment by law enforcement officials must be duly investigated and, if appropriate, the officials concerned punished accordingly (paragraph 16);

- it is important to ensure that all persons entrusted with carrying out investigative acts concerning complaints against the police are not from the same service as those who are the subject of the investigation. Ideally, those entrusted with the operational conduct of the investigation should be completely independent of the agency implicated (paragraph 17);
  
- the Serbian authorities are invited to introduce a uniform nationwide system for the compilation of statistical information on complaints, disciplinary sanctions, and criminal proceedings/sanctions against law enforcement officials (paragraph 18).

### requests for information

- in respect of 2007 and the first half of 2008:
  - the number of complaints of torture and other forms of ill-treatment made against police officers (with indication of the authority to which the complaints were made);
  - the number of disciplinary and criminal proceedings (pursuant to Sections 136 and 137 of the Criminal Code) which were instituted as a result of these complaints;
  - an account of the outcome of these proceedings, including disciplinary and criminal sanctions imposed(paragraph 18).

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

#### recommendations

- the Serbian authorities to take steps to ensure that the right of access to a lawyer for persons deprived of their liberty by the police applies effectively as from the very outset of their deprivation of liberty. Anyone who is under a legal obligation to attend and stay at a police establishment (e.g. as a "witness") should also be granted the right of access to a lawyer (paragraph 23);
- further efforts to be made 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 24);
- the Serbian authorities to issue specific instructions with a view to ensuring that a person taken into police custody has, as from the outset of his deprivation of liberty, an effective right to be examined by a doctor (it being understood that an examination by a doctor of the detained person's own choice may be carried out at his own expense) (paragraph 26);
- steps to be taken to implement the CPT's earlier recommendations about the confidentiality of medical examinations of persons in police custody, the content of the record to be made by the doctor following the examination, and the availability of the record for the detained person and his/her lawyer (paragraph 26);

- the Serbian authorities to issue a form setting out in a straightforward manner the rights of persons deprived of their liberty by the police (including the right of access to a doctor) and to ensure that the form is systematically given to such persons as from the outset of their deprivation of liberty (i.e. as from the moment the persons concerned are first obliged to remain with the police). 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. The form should be made available in an appropriate range of languages (paragraph 27);
- steps to be taken to ensure that juveniles do not make any statements or sign any documents related to the offence of which they are suspected without the benefit of a lawyer and/or a trusted person being present and assisting the juvenile (paragraph 29);
- steps to be taken to ensure that all persons deprived of their liberty by the police, who do not understand Serbian, are promptly provided with the services of an interpreter and, in particular, are not requested to sign any statements or other documents before the interpreter's services are provided (paragraph 30);
- steps to be taken to ensure that whenever a person is deprived of his liberty by a law enforcement agency, for whatever reason, this fact is duly recorded without delay (paragraph 31);
- standard-format and comprehensive custody registers to be kept at each police establishment, containing information on all aspects of the person's custody and all the action taken in connection with it (paragraph 31);
- the Serbian authorities to take steps 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 32);
- the return of remand prisoners to police custody - for whatever purpose - to be only sought when it is absolutely unavoidable and be subject to the authorisation of the relevant prosecutor/judge. Further, the transfer of remand prisoners to and from police establishments should be duly recorded (paragraph 33).

requests for information

- clarification from the Serbian authorities, in the light of the information provided to the CPT's delegation by a criminal police officer at Bor District Police Unit (that the notification of a person's custody to his next-of-kin would normally only be done through the person's lawyer) (paragraph 22);
- confirmation that a request by a person in police custody to be examined by a doctor of his own choice must be immediately granted (paragraph 25);
- comments of the Serbian authorities on the procedure of "informative talks" (paragraph 28);
- comments of the Serbian authorities on several cases of juveniles who had been held at the Metropolitan Police Headquarters in Belgrade and had been interviewed by inspectors from the criminal police department, without the knowledge of their colleagues from the department of juvenile police (paragraph 29).

### **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 included in the action plan referred to in paragraph 36 of the report and implemented 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. at least 6 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 (access to natural light and artificial lighting), 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; this implies that police establishments should be allocated a specific budget for this purpose;
  - ensure that the toilet and washing facilities are in a good state of repair (paragraph 36);



- the very small cells at Indija Police Station and at Zaječar District Police Unit to be taken out of service (paragraph 36):
- the cell at Negotin Police Station (referred to in paragraph 35 of the report) to be taken out of service until such time as it is equipped with a proper heating system (paragraph 36).

#### comments

- the Serbian authorities are invited to address the shortcomings observed at Sremska Mitrovica District Police Unit (paragraph 37).

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

#### **Preliminary remarks**

#### recommendations

- the Serbian authorities to redouble their efforts to combat prison overcrowding and, in so doing, to 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(2003)22 on conditional release (parole) and Recommendation Rec(92)16 on the European rules on community sanctions and measures (as revised by Recommendation Rec(2000)22), as well as by Recommendation 1245 (1994) of the Parliamentary Assembly of the Council of Europe on the detention of persons pending trial (paragraph 39).

#### **Ill-treatment**

#### recommendations

- the management of Požarevac-Zabela Correctional Institution to make use of all means at their disposal to decrease tension, in particular at the establishment's high security unit, Pavilion VII and the remand section. In addition to investigating complaints made by prisoners, this will require the regular presence of the establishment's senior managers in the detention areas (including in the remand section), their direct contact with prisoners, and the improvement of prison staff training (paragraph 42);

- the management of Požarevac-Zabela Correctional Institution to deliver the clear message to custodial staff that physical ill-treatment of inmates as well as other forms of disrespectful or provocative behaviour vis-à-vis prisoners are not acceptable and will be dealt with severely. A similar message should be given to staff at Belgrade District Prison. Further, prison staff at all three establishments should be reminded that the force used to control violent and/or recalcitrant prisoners should be no more than necessary and once prisoners have been brought under control, there can be no justification for their being struck (paragraph 42);
- wooden sticks and iron rods to be removed without delay from the offices of custodial staff at Požarevac-Zabela and Sremska Mitrovica Correctional Institutions (paragraph 45);
- the Serbian authorities to take steps to bring the practice of using “coercive means” in prisons in line with the considerations set out in paragraph 46 of the report. In this context, it is also important to ensure that prosecutors and the Ministry of Justice’s Inspectorate are systematically notified of any use of physical force and “coercive means” by prison staff, and that they be particularly vigilant when examining such cases (paragraph 46).

#### comments

- if it is deemed necessary for prison staff to carry truncheons, they should be hidden from view (paragraph 45).

#### requests for information

- the progress of the criminal investigation into the case of death of prisoner X. on 17 July 2005, and the investigation’s outcome (paragraph 43);
- the outcome of the disciplinary proceedings referred to in paragraph 44 of the report (paragraph 44);
- the following information for 2007 and the first half of 2008 in respect of all prisons in Serbia:
  - the number of complaints of torture and other forms of ill-treatment made against prison staff (with an indication of the authority to which the complaints were made);
  - the number of disciplinary and criminal proceedings (pursuant to Sections 136 and 137 of the Criminal Code) which were instituted as a result of these complaints;

- an account of the outcome of these proceedings, including disciplinary and criminal sanctions imposed (paragraph 44);
- clarification as regards the instruction, that had reportedly been issued recently by the Administration for the Enforcement of Penal Sanctions, not to record "light traumatic injuries" (paragraph 47).

### **Material conditions of detention**

#### recommendations

- a call system to be installed in refurbished cells at Belgrade District Prison (paragraph 48);
- the Serbian authorities to devise, as a matter of high priority, a comprehensive and fully budgeted refurbishment programme for Belgrade District Prison, comprising 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 sockets. The already refurbished sections of the Special Prison Hospital (see paragraph 85 of the report) could be used as a reference in the context of the refurbishment programme (paragraph 49);
- pending the completion of the refurbishment of Belgrade District Prison, strenuous efforts to be made immediately to:
  - reduce significantly the occupancy level in the cells, the objective being to comply with the standard of 4 m<sup>2</sup> of living space per prisoner in multi-occupancy cells;
  - refurbish the toilets (including the provision of a partition) and showers, especially on the ground floor of the main detention building;
  - supply all inmates with appropriate bedding (including pillows), which should be cleaned at regular intervals, and a range of personal hygiene items and of products to clean their cells (paragraph 49);
- the Serbian authorities to take, without delay, appropriate measures to relocate the kitchen of Belgrade District Prison (paragraph 50);

- steps to be taken to refurbish, as a matter of priority, the cells in Pavilion II of Sremska Mitrovica Correctional Institution (paragraph 53);
- no more than two inmates to be accommodated in each cell in Pavilion II of Sremska Mitrovica Correctional Institution (paragraph 53);
- the in-cell toilets in Pavilion III of Sremska Mitrovica Correctional Institution to be equipped with a partition (paragraph 53);
- 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;
  - refurbish Pavilion VII and the remand section, so as to remedy the deficiencies described in paragraphs 55 and 56 of the report (including as regards toilets and showers);
  - improve prisoners' access to a shower, in the light of Rule 19.4 of the revised European Prison Rules;
  - provide all prisoners with a range of personal hygiene items and of products to clean their cells (paragraph 57);
- the oppressive practice of obliging inmates in Pavilion VII of Požarevac-Zabela Correctional Institution to listen to loud music the whole day to be stopped immediately (paragraph 58).

### comments

- the Serbian authorities are invited to provide the juveniles accommodated at Belgrade District Prison with food according to their dietary needs (paragraph 50).

### requests for information

- the progress in the adoption and implementation of the refurbishment programme for Belgrade District Prison (paragraph 49);
- comments of the Serbian authorities on whether the available resources would not be used in a more efficient manner by building a completely new establishment in Belgrade (paragraph 49);
- the timetable for the completion of the refurbishment of Pavilion I of Sremska Mitrovica Correctional Institution, as well as for bringing the new admission/remand and “drug-free” units into service (paragraph 53);
- the date of entry into service of Pavilion VI of Požarevac-Zabela Correctional Institution, as well as its official capacity and detention regime (paragraph 54);
- confirmation that the basement cells in Pavilion VII of Požarevac-Zabela Correctional Institution are no longer in service (paragraph 55).

## **Activities**

### recommendations

- the Serbian authorities to ensure that all remand prisoners at Belgrade District Prison and Požarevac-Zabela and Sremska Mitrovica Correctional Institutions are offered the possibility to take outdoor exercise every day for at least one hour. Further, the exercise yard at Belgrade District Prison should be equipped with a means of rest and a shelter against inclement weather (paragraph 59);
- the Serbian authorities to review the regime of remand prisoners, in the light of the remarks set out in paragraph 60 of the report (paragraph 60);
- the Serbian authorities to take urgent measures to ensure that juvenile prisoners are offered educational and recreational activities, which take into account the specific needs of their age group. Physical education should form a major part of

that programme. For this purpose, juvenile prisoners should have access to the indoor gym facility on the premises of Belgrade District Prison (paragraph 61);

- the Serbian authorities to take steps to increase the provision of purposeful activities for sentenced prisoners. In this context, the authorities should seek to introduce measures aimed at ensuring that all prisoners are provided with an opportunity to work. Efforts should also be made to develop programmes of education and vocational training in all penitentiary establishments (paragraph 62);
- the Serbian authorities to take steps to develop the regime applied to prisoners identified as posing a security risk and other long-term prisoners at Požarevac-Zabela and Sremska Mitrovica Correctional Institutions, taking due account of the remarks set out in paragraph 64 of the report. If necessary, the relevant legislation should be amended (paragraph 64):
- the Serbian authorities to review the classification system for sentenced prisoners and its implementation as a matter of urgency, with a view to making it effective, objective, clear and linked with a comprehensive treatment programme (paragraph 66);
- steps to be taken to allow remand prisoners to meet a religious representative in private (paragraph 67).

#### requests for information

- any projects currently underway in the Serbian penitentiary system similar to the re-opening of the school at Sremska Mitrovica Correctional Institution (paragraph 62).

#### **Health-care services**

##### recommendations

- the Serbian authorities to take steps to reinforce the health-care resources of the three penitentiary establishments visited, and in particular to:
  - substantially increase the number of qualified nurses (“medical technicians”);
  - appoint one more general practitioner at Požarevac-Zabela Correctional Institution;

- improve the dental care arrangements;
  - ensure that someone qualified to provide first aid, preferably with a recognised nursing qualification, is always present on the prisons' premises, including at night and weekends (paragraph 68);
- the use of prisoners as orderlies at Sremska Mitrovica and Požarevac-Zabela Correctional Institutions to be phased out, and steps to be taken to ensure that the distribution of medicines is performed by qualified health-care staff (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);
  - 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. The medical examination on admission should be comprehensive, including appropriate screening for transmissible diseases (see also paragraph 75 of the report). The same approach should be followed whenever a prisoner is medically examined following a violent episode in prison (paragraph 72);
  - the Serbian authorities to ensure that all medical examinations of prisoners (whether on arrival or at a later stage) are conducted out of the hearing and – unless the doctor concerned requests otherwise in a particular case – out of the sight of prison officers (paragraph 73);
  - the quality of medical documentation in Serbian prisons to be improved. In particular, personal medical files should contain diagnostic information as well as an ongoing record of the prisoner's state of health and of any special examinations he/she has undergone (paragraph 74);
  - the Serbian authorities to develop a strategy for combating transmissible diseases in prison (in particular, hepatitis, HIV, dermatological infections) involving the provision of information to both prisoners and prison staff concerning methods of transmission, as well as the supply of appropriate means of protection analogous to those used in the community at large (paragraph 75);
  - 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 made in paragraph 76 of the report (paragraph 76);
  - the Serbian authorities to remedy the shortcomings observed in the recording and investigation of deaths of inmates at the penitentiary establishments, and prison

doctors to be systematically provided with the conclusions of autopsy reports concerning prisoners who have died in their establishments (paragraph 77);

- the Serbian authorities to take steps to ensure the active involvement of prison health-care services in all health-related aspects in prisons, in the light of the remarks set out in paragraph 78 of the report (paragraph 78).

#### comments

- the Serbian authorities are invited to introduce a uniform system for keeping medical registers in the penitentiary system (paragraph 74);
- the Ministry of Health should get more actively involved in the area of prison health-care services (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 for the principle of equivalence of care. This means that prison health-care services should be able to provide medical treatment and nursing care, as well as physiotherapy, rehabilitation or any other necessary special facility, in conditions comparable to those enjoyed by patients in the outside community (paragraph 79).

#### requests for information

- the comments of the Serbian authorities on the apparent delays as regards transferring inmates for treatment to hospital facilities and access to medical specialists outside the penitentiary system (paragraph 71).

### **Special Prison Hospital in Belgrade**

#### recommendations

- custodial staff at the Special Prison Hospital in Belgrade to be reminded that all forms of ill-treatment (including verbal abuse) are not acceptable and will be the subject of severe sanctions (paragraph 81);
- 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 81);
- detailed regulations concerning the duties of custodial staff employed at the Hospital to be adopted as a matter of urgency (paragraph 82);
- steps to be taken to review the procedures for the selection of security staff and their initial and ongoing training (paragraph 82);



- the Serbian authorities to step up their efforts to combat the phenomenon of inter-patient violence at the Hospital; this will require inter alia a substantial increase in nursing staff levels and presence (see paragraph 92 of the report) (paragraph 83);
- a clearly defined policy on the use of means of restraint at the Hospital to be drawn up. This policy should 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. Nursing staff (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 (paragraph 84);
- the refurbishment programme of the Hospital to be pursued as a high priority. Further, ways should be sought to significantly reduce the level of overcrowding at the establishment (paragraph 85);
- the Serbian authorities to take urgent steps to address the problem of hygiene in patients' accommodation areas at the Hospital. Particular attention should be given to the needs of incontinent patients (including the adequate supply of special mattresses and diapers). Further, arrangements should be found to ensure that patients' clothes are kept clean (paragraph 86);
- steps to be taken without delay to ensure that all patients whose medical condition allows it are offered the possibility to take outdoor exercise every day, in accordance with the law. Further, the outdoor exercise yard should be equipped with a means of rest and a shelter against inclement weather (paragraph 87);
- efforts to be made to develop the range of rehabilitative psycho-social activities for psychiatric patients at the Hospital; occupational therapy should be an integral part of the rehabilitation programme, providing for motivation, development of learning and relationship skills, acquisition of specific competences and improvement of self-image (paragraph 88);
- an individual treatment plan to be drawn up for each psychiatric patient (taking into account the special needs of acute and long-term patients), including the goals of the treatment, the therapeutic means 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 88);
- steps to be taken to improve living conditions in the room for TB patients at the Hospital (paragraph 91);
- further efforts to be made to increase the staffing levels and the time of presence of health-care staff at the Hospital, especially as regards nurses and staff qualified to provide psycho-social therapeutic activities (paragraph 92);

- steps to be taken to provide nurses working with psychiatric patients with training reflecting the specialised nature of their work (paragraph 92);
- the disciplinary/isolation cells at the Hospital to be taken out of service until such time as the deficiencies mentioned in paragraph 93 of the report are remedied (paragraph 93);
- steps to be taken to ensure that inmates placed in disciplinary/isolation cells are offered at least one hour of outdoor exercise each day. Further, persons placed in such cells should be granted access to a shower at least once, preferably twice, a week (paragraph 93);
- 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 (paragraph 94);
- measures to 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 (paragraph 95);
- the Serbian authorities to seek to resolve the problem of continuing hospitalisation of forensic psychiatric patients at the Hospital on non-medical grounds (paragraph 96);
- a brochure setting out the establishment's routine and patients' rights to be drawn up and systematically provided to patients and their families on admission to the Hospital (paragraph 97).

#### comments

- special registers for recording instances of use of restraints should be introduced in all the wards (paragraph 84);
- the application of restraints every night for months on end has no therapeutic justification (paragraph 84);
- mechanical restraint should normally be applied only by duly trained health-care staff (paragraph 84);

- the use of truncheons and handcuffs is not an appropriate way of dealing with agitated psychiatric patients (paragraph 84);
- efforts are still required to develop the treatment programme for the majority of patients with drug or alcohol addiction problems (paragraph 89);
- the remarks and recommendations made in paragraphs 20 and 47 of the report on the subject of the recording and reporting of injuries observed on newly-arrived prisoners apply equally with respect to the Special Prison Hospital in Belgrade (paragraph 90).

#### requests for information

- confirmation that the initial examination procedure at the Hospital includes screening for TB (paragraph 90);
- more detailed information about the circumstances of the death of patient Z., as well as the autopsy report (paragraph 98).

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

##### Staff issues

#### comments

- the Serbian authorities are encouraged to continue to give high priority to the advancement of prison staff training, both initial and on-going. In the course of such training, considerable emphasis should be placed on adherence to official policies, practices and regulations of the prison service (including the European Prison Rules). The development of interpersonal communication skills should also have a prominent part in training; building sound and constructive relations with prisoners should be recognised as a key feature of a prison officer's professional role (paragraph 99).

##### Contact with the outside world

#### recommendations

- the law and regulations to be amended so as to ensure that granting visits to remand prisoners is the norm, the refusal of visits the exception (paragraph 100);
- the practice of systematically reading remand prisoners' correspondence with their lawyers to be stopped immediately (paragraph 101);

- the existing law and regulations concerning sentenced prisoners' contact with the outside world to be reviewed, in the light of the remarks set out in paragraph 102 (paragraph 102);
- the Serbian authorities to take steps to improve access to a telephone for prisoners in Pavilion VII of Požarevac-Zabela Correctional Institution, in the light of the remarks set out in paragraph 103 of the report (paragraph 103).

#### comments

- the Serbian authorities are invited to explore the possibility of offering remand prisoners access to a telephone; if there is a perceived risk of collusion, a particular phone call could be monitored. In addition, the existing legislation should be amended so as to establish a minimum entitlement (i.e. length of each telephone conversation) as regards access to a telephone for prisoners (paragraph 103).

#### Discipline/solitary confinement

#### recommendations

- the Serbian authorities to review the relevant regulations in line with the recommendation made by the CPT in paragraph 132 of the report on its 2004 visit. As regards the role of prison doctors in relation to disciplinary matters, regard should be had to the revised European Prison Rules (in particular, Rule 43) and the comments made by the CPT in its 15<sup>th</sup> General Report (see paragraph 53 of CPT/Inf (2005) 17) (paragraph 104);
- the Serbian authorities to take urgent steps to remedy the shortcomings as regards the provision of bedding, access to a shower and access to outdoor exercise for inmates placed in solitary confinement or disciplinary isolation in Pavilion VII of Požarevac-Zabela Correctional Institution (paragraph 105).

#### requests for information

- comments of the Serbian authorities on the fact that, at Požarevac-Zabela and Sremska Mitrovica Correctional Institutions, lying in bed or sleeping during the day continued to be considered as a breach of discipline, despite the fact that such behaviour does not appear on the list of disciplinary offences (paragraph 106).

“Coercive means”

#### recommendations

- the Serbian authorities to take steps with respect to the use of “coercive means” in prisons, in the light of the remarks set out in paragraph 108 of the report (paragraph 108).

#### Complaints and inspection procedures

#### recommendations

- the Serbian authorities to take appropriate steps to ensure that prisoners lodging complaints are not subjected to reprisals (paragraph 109).

#### comments

- the Serbian authorities are invited to remind all penitentiary establishments that prisoners’ correspondence with the Ombudsman is strictly confidential (paragraph 109);
- the Serbian authorities are invited to further develop the system of monitoring of penitentiary establishments by independent outside bodies. In this context, the Committee wishes to stress that, 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 110).

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

#### **Preliminary remarks**

#### comments

- the Serbian authorities are encouraged to implement the “Strategy for the Development of Mental Health Care” as a matter of priority (paragraph 113).

#### requests for information

- comments of the Serbian authorities on the fact that the vast proportion of the patients at Kovin Specialised Neuro-Psychiatric Hospital were *de facto* involuntary, even if this was not confirmed by any formal procedure (paragraph 111).

### **Ill-treatment**

#### recommendations

- steps to be taken to ensure that staff at Kovin Hospital 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 114).

### **Patients' living conditions**

#### recommendations

- steps to be taken at Kovin Hospital in order to:
  - carry out, as a matter of priority, a comprehensive refurbishment programme, in particular with a view to improving artificial lighting, ventilation and heating in the dormitories. In the context of this programme, the possibility of transforming the large-capacity dormitories into smaller structures should be considered;
  - reduce the occupancy levels in the dormitories;
  - provide the hospital with new furniture and bedding;
  - provide patients with lockable space and allow a reasonable number of personal belongings;
  - refurbish the toilet, washing and shower facilities and maintain them in a clean condition; the toilets should be fitted in a manner allowing patients some privacy, and the CCTV monitoring should be removed from the toilets in the acute wards;
  - ensure an adequate supply of diapers for incontinent patients;
  - ensure that all patients benefit from the possibility of taking a shower at appropriate intervals, according to patients' individual needs;

- allow patients to wear as far as possible their own clothes during their stay, and abolish the practice of requiring patients from the acute wards to wear pyjamas the whole day (paragraph 121);
- the Serbian authorities to take measures to ensure that patients accommodated in pavilion A of the psycho-geriatric ward of Kovin Hospital (as well as in all other mixed-gender wards of the establishment) are not subjected to inappropriate interaction with patients of the opposite sex (paragraph 122).

### **Treatment and regime**

#### recommendations

- efforts to be made to expand the range of therapeutic options at Kovin Hospital 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 the long-term treatment programme, providing for motivation, development of learning and relationship skills, acquisition of specific competences and improving self-image (paragraph 125);
- an individual treatment plan to be drawn up for each patient at Kovin Hospital (taking into account the special needs of acute, long-term and forensic patients including, with respect to the latter, 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 125);
- steps to be taken to ensure that all patients at Kovin Hospital, whose medical condition so permits, are offered at least one hour of outdoor exercise every day (paragraph 126).

#### comments

- the Serbian authorities are invited to make efforts to involve more patients at Kovin Hospital in recreational activities adapted to their needs (paragraph 125);
- the approach consisting of accommodating, at the somatic ward of Kovin Hospital, certain patients who did not suffer from any somatic disease is contrary to the management's declared deinstitutionalisation objective; it serves to support the patients' long-term stay and impedes timely discharge (paragraph 127).

### requests for information

- comment on the fact that many patients were admitted to the somatic ward of Kovin Hospital because of serious side-effects of psychiatric medication, such as the neuroleptic malignant syndrome (paragraph 123);
- whether patients of Kovin Hospital with detected active TB receive treatment following the DOTS programme (paragraph 127).

### **Staff**

#### recommendations

- the Serbian authorities to take steps at Kovin Hospital to:
  - increase the number and presence of nurses on the wards;
  - reinforce substantially the team of specialists qualified to provide psycho-social rehabilitative activities (psychologists, occupational therapists, social workers, etc.) (paragraph 129);
- specialised training – both initial and ongoing – to be developed in Serbia for nurses working with psychiatric patients (paragraph 129).

#### comments

- the CPT trusts that regular meetings in Kovin Hospital, allowing the staff to engage in professional discussions, will be introduced (paragraph 130).

### **Means of restraint**

#### recommendations

- staff at Kovin Hospital to be instructed that means of restraint (including chemical restraint) should never be applied as a form of punishment (paragraph 131);



- the practices of applying mechanical restraints in full view of other patients and of requesting patients to help staff restrain another patient to be discontinued without delay; mechanical restraints should not be applied to a patient in the sight of other patients, and the restraint and supervision of patients should be the exclusive responsibility of qualified health-care staff (paragraph 132);
- the Serbian authorities to adopt a policy for the use of means of restraint, in the light of the remarks set out in paragraph 133 of the report (paragraph 133).

#### comments

- prolonged and routine restraining of a patient can have no therapeutic justification (paragraph 132);
- the management of Kovin Hospital is invited to ensure that the registers of the use of means of restraint are properly kept on all the wards (paragraph 132).

#### **Safeguards**

#### recommendations

- steps to 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 Kovin Hospital (paragraph 135);
- steps to 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 (paragraph 135);
- the Serbian authorities to ensure that the criteria justifying involuntary hospitalisation are spelt out more clearly (paragraph 136);
- steps to 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 (paragraph 137);

- instructions to be issued to the staff at Kovin Hospital to systematically verify the legal competence of patients upon admission, and to take appropriate steps in consequence (paragraph 137);
- all patients (and, if they are incompetent, their legal representatives) to be provided systematically with information about their condition and the treatment prescribed for them, and doctors to 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 (paragraph 138);
- steps to be taken to ensure that involuntary psychiatric patients have effective access to legal assistance (independent of the admitting hospital), if necessary free of charge (paragraph 141);
- a brochure setting out the establishment's routine and patients' rights be drawn up and systematically provided to patients and their families on admission to Kovin Hospital and to all other psychiatric establishments in Serbia (paragraph 142);
- steps to be taken at Kovin Hospital to set up appropriate facilities in which patients can meet their relatives (paragraph 143);
- measures to be taken to ensure that patients at Kovin Hospital – as well as in all other psychiatric establishments in Serbia – are effectively in a position to send confidential complaints to outside authorities (paragraph 144);
- steps to be taken to ensure that Kovin Hospital (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 (paragraph 145).

#### comments

- the recommendation made in paragraph 135 of the report 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 (paragraph 140);

- the Serbian authorities are invited to make efforts to improve the possibilities for patients at Kovin hospital to make telephone calls (paragraph 143).

#### requests for information

- the prospects of adoption of the new Law on Mental Health (paragraph 134);
- the comments of the Serbian authorities on the subject of patients' consent to participating in research projects (paragraph 139).

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

#### **Preliminary remarks**

#### recommendations

- the Serbian authorities to step up their efforts to reorganise the system for provision of care to persons with mental disabilities, including both de-institutionalisation programmes and options for those persons who will not be able to benefit from such programmes (paragraph 148).

#### **Ill-treatment**

#### recommendations

- the Serbian authorities to take the necessary measures, in the light of the remarks in paragraph 150 of the report, to protect residents at the Special Institution for Children and Juveniles in Stannica from other residents who might cause them harm (paragraph 150);
- a thorough inquiry into the circumstances in which the resident A.'s injuries were sustained to be carried out without delay, and its results transmitted to the CPT (paragraph 153);
- doctors at the Special Institution in Stannica to be instructed to systematically record in writing all injuries observed on newly-admitted residents. Whenever possible (taking into account the residents' condition), the doctors should request residents to provide an explanation about the circumstances in which the injuries had been sustained. These explanations should also be recorded, together with the

doctor's conclusions on the degree of consistency between the resident's explanations and the doctor's objective medical findings. Whenever injuries are recorded which are consistent with allegations of ill-treatment made (or, if the resident is not capable of making a statement due to his condition, whenever the type and character of injuries suggest that they might have resulted from ill-treatment), the record should be systematically brought to the attention of the competent prosecutor (paragraph 153).

comments

- the combination of severe overcrowding, lack of staff and lack of stimulation/activities at Pavilions 1 to 6 (the "upper zone") of the Special Institution in Stamnica resulted in living conditions that could be considered as amounting to inhuman and degrading treatment (paragraph 151).

## **Residents' living conditions**

### recommendations

- the Serbian authorities to persevere in their efforts to create living conditions at the Special Institution in Stannica which are conducive to the treatment and well-being of residents and provide a positive educational and therapeutic environment and, in so doing, to take into account the remarks set out in paragraphs 154 to 160 of the report (paragraph 162);
- steps to be taken at the Special Institution in Stannica to:
  - ensure that Pavilion A and Pavilions 1 to 6 are properly ventilated and kept clean;
  - provide adequate supplies of diapers for incontinent residents;
  - modify the design of the toilets and showers, so as to offer some privacy to residents;
  - improve the decoration in Pavilion A (paragraph 162).

### requests for information

- information on the implementation of the measures referred to in paragraph 161 of the report (paragraph 162);
- in due course, more detailed information about the new accommodation building at the Special Institution in Stannica (envisaged capacity, function, date of entry into service, etc.) (paragraph 163).

## **Care of residents**

### recommendations

- urgent steps to be taken to ensure adequate and uninterrupted supplies of the necessary psychiatric medication at the Special Institution in Stannica (paragraph 164);

- the Serbian authorities to step up their efforts to improve dental care for residents at the Special Institution in Stamnica, including access to conservative dental treatment (paragraph 165);
- funding to be provided not only for the drawing up of treatment plans and the training of staff but also for implementing those plans (paragraph 167);
- increased efforts to be made to involve all residents at the Special Institution in Stamnica in activities adapted to their needs. Particular attention should be given to developing programmes of therapeutic and rehabilitative activities with a view to improving the quality of life of residents, as well as resocialisation programmes preparing residents who have the potential to live in the community for discharge. Achieving this goal will require recruiting more qualified staff (paragraph 167);
- the Serbian authorities to take steps to ensure that all the residents from Pavilions 1 to 6 of the Special Institution in Stamnica have the possibility to spend a reasonable time outdoors every day (paragraph 168).

#### requests for information

- the comments of the Serbian authorities on the use of barbiturates at the Special Institution in Stamnica (paragraph 164);
- the comments of the Serbian authorities on the subject of sexual relations between residents at the Special Institution in Stamnica (paragraph 170);
- more detailed information on the precise mandate and *modus operandi* of the Ethical Committee referred to in paragraph 170 of the report (paragraph 170).

#### **Staff**

##### recommendations

- steps to be taken at the Special Institution in Stamnica to increase the number of other categories of care staff working with residents (special educators, work therapists, social workers, etc) (paragraph 172).

#### **Means of restraint**

##### recommendations

- the Serbian authorities to adopt a policy on the use of means of restraint at the Special Institution in Stamnica, in the light of the remarks set out in paragraph 174 of the report (paragraph 174).

## **Safeguards**

### recommendations

- steps to be taken without delay to ensure that persons placed in the Special Institution in Stannica (as well as in all other specialised institutions in Serbia) have the effective right to bring proceedings to have the lawfulness of their placement decided by a court (paragraph 175);
- the existing placement procedure to be amended in such a way as to introduce an automatic notification to the competent court – with a view to seeking the court’s approval – of all decisions to place a person in a specialised institution against the person’s will (or at the instigation of the person’s guardian) (paragraph 175);
- the existing legislation to be amended so as to introduce a mechanism of regular review of placement in specialised institutions (such as the Special Institution in Stannica). Further, residents themselves should be able to request at reasonable intervals that the necessity to continue the placement be considered by an independent authority (paragraph 176);
- the relevant legislation to be amended so as to ensure that all decisions on deprivation of legal capacity are subjected to a regular court review (paragraph 177);
- the Serbian authorities to take the necessary steps to ensure that all persons who are the subject of proceedings with a view to being deprived of their legal capacity are systematically heard in person by the court, given a copy of the court decision and informed, verbally and in writing, of the possibility and modalities for appealing against a decision to deprive them of their legal capacity. The legal provisions currently in force should also be amended so as to put in place the right for the persons concerned to initiate the procedure for the review of the court decision on deprivation of their legal incapacity. Steps should be taken to ensure that persons concerned have effective access to legal assistance in the context of the above-mentioned procedures (paragraph 177);
- the Serbian authorities to incorporate into the legislation governing guardianship the 28 principles set out in Recommendation Rec(99)4 of the Committee of Ministers of the Council of Europe concerning the Legal Protection of Incapable Adults (paragraph 177);
- the relevant authorities to take the necessary steps to ensure that legal guardians fulfil their duties responsibly and in the interests of the residents (paragraph 178);



- steps to be taken to ensure that residents are informed of their rights and possibilities to lodge formal complaints, on a confidential basis, with clearly designated outside bodies. This information should form part of the contracts signed by residents or their legal guardians. Residents unable to understand the contracts should receive appropriate assistance (paragraph 180).

#### comments

- the Serbian authorities are invited to introduce a firm legal basis for regular visits to the Special Institution in Stamnica (as well as all other specialised institutions in Serbia) by bodies which are independent of the social care authorities (paragraph 180);
- the Serbian authorities are invited to improve the possibilities for residents of the Special Institution in Stamnica to make telephone calls (paragraph 181).

#### requests for information

- the comments of the Serbian authorities on the long delays in the procedure of deprivation of legal capacity of residents admitted as minors who turned 18 while at the Special Institution in Stamnica (paragraph 179);
- confirmation that the objective of clarifying the legal situation of all residents at the Special Institution in Stamnica before the entry into force of the new Law on Health Insurance has been reached (paragraph 179).

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## **APPENDIX II**

### **LIST OF THE NATIONAL AUTHORITIES AND NON-GOVERNMENTAL AND INTERNATIONAL ORGANISATONS WITH WHICH THE CPT'S DELEGATION HELD CONSULTATIONS**

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

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

Mr Dušan PETROVIĆ

Minister

Ms Snežana MALOVIĆ	Secretary of State
Mr Slobodan HOMEN	Assistant to the Minister
Mr Saša VUKADINOVIĆ	Director
Mr Borislav MARIĆ	Adviser
Mr Goran NEŠIĆ	Adviser
Ms Aleksandra STEPANOVIĆ	Adviser
Mr Milan TANASKOVIĆ	Adviser

### **Ministry of Health**

Mr Tomica MILOSAVLJEVIĆ	Minister
Ms Gordana PODJANIN	Director
Ms Katarina STANKOVIĆ	Adviser

### **Ministry of Labour and Social Welfare**

Mr Rasim LJALIĆ	Minister
Ms Dragica VLAOVIĆ	Deputy Minister
Ms Slobodanka RADOJKO	Adviser

### **Ministry of Interior**

Mr Srbislav RANDJELOVIĆ	Deputy Minister
Mr Dragomir OBRADOVIĆ	Assistant to the Minister
Mr Ljubinko NIKOLIĆ	Director
Mr Nebojša PANTELIĆ	Adviser
Mr Dejan ŽIVALJEVIĆ	Adviser

**Ministry of Foreign Affairs**

Mr Aleksandar RADOVANOVIĆ Director

**Office of the Republican Public Prosecutor**

Mr Jovan KRSTIĆ Deputy Republican Public Prosecutor

Ms Gordana STOJANOVIĆ Deputy Republican Public Prosecutor

Ms Olgica MILORADOVIĆ Adviser

**Security and Information Agency**

Mr Rade BULATOVIĆ Director

Mr Jovan STOJIC Deputy Director

**Agency for Human and Minority Rights**

Mr Petar LADJEVIĆ Director

Mr Slavoljub CARIĆ Deputy Director

Mr Vladimir DJURIĆ Deputy Director

Mr Dragan KNEŽEVIĆ Adviser

**Office of the Protector of Citizens**

Mr Saša JANKOVIĆ Protector of Citizens

Mr Budimir ŠTEPANOVIĆ Deputy Protector of Citizens

Ms Jovana MATIĆ Adviser

Ms Zdenka PEROVIĆ Secretary General

**B. Non-governmental organisations**

Belgrade Centre for Human Rights

Serbian Helsinki Committee

### C. International organisations

ICRC Regional Delegation

OSCE Mission to Serbia

<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 this 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).

<sup>[2]</sup> Among others, the new Law on Police (LP), which came into force on 1 September 2006, followed by the Code of Police Ethics and the Rules on Police Powers (Section 30 of which makes clear that the calculation of the 48-hour time limit for police custody must start as from the moment when a person is de facto deprived of his/her liberty, i.e. obliged to remain with the police).

<sup>[3]</sup> The entry into force of the new Code of Criminal Procedure (CCP), adopted in May 2006, has been delayed until 1 January 2009. In the meantime, the "old" CCP remains in force albeit with certain amendments, the most important (adopted in May 2007) being to ensure that all detention decisions are taken by courts.

<sup>[4]</sup> For example, the new Law on Police contains provisions conflicting with some sections of the "old" CCP. Further, several by-laws to the LP are still missing and the old ones are not always compatible with the new law.

<sup>[5]</sup> In force as of 1 January 2006.

<sup>[6]</sup> Further, recent amendments to the CCP have made clear that evidence obtained under torture or ill-treatment is invalid and that a statement made by a person in police custody cannot be considered as evidence by court unless it was made in the presence of the person's lawyer, confirmed by the lawyer's signature. It is also noteworthy that the new Code of Police Ethics states (Section 34) that "no member of the Ministry [of Interior] has authority to order, carry out, instigate or tolerate torture or any other cruel, inhuman or degrading treatment [...]. Section 35 of the Code stipulates that "the police shall resort to the use of force [...] only in the cases and under the conditions provided by law [...]; the police shall not use excessive force, and shall use force only as absolutely necessary to achieve a specific lawful purpose."

<sup>[7]</sup> See also paragraphs 25 to 42 of the CPT's 14th General Report (CPT/Inf (2004) 28).

<sup>[8]</sup> See Rules on Procedure for the Resolution of Complaints.

<sup>[9]</sup> Appointed for a renewable 4-year term by the Minister on recommendation of the local community and the NGO's.

<sup>[10]</sup> I.e. 2001 to 2007 with respect to the whole of Serbia except Belgrade; and 2005 to 2007 as regards Belgrade.

<sup>[11]</sup> The above-mentioned recommendation read as follows: "The CPT recommends that, whenever criminal suspects brought before an investigating judge or public prosecutor at the end of police custody or thereafter allege ill-treatment by the police, the judge or prosecutor should record the allegations in writing, order immediately a forensic medical examination and take the necessary steps to ensure that the allegations are properly investigated. Such an approach should be followed whether or not the person concerned bears visible external injuries. Further, even in the absence of an express allegation of ill-treatment, the judge or prosecutor should order a forensic medical

examination whenever there are other grounds to believe that a person brought before him could have been the victim of ill-treatment.”

[12] It should be added that the system for recording of injuries was different in each of the prisons visited.

[13] See paragraph 46 of CPT/Inf (2006) 18.

[14] Section 5 (7) of the new CCP stipulates that a suspect must be informed of this right before the first interview takes place.

[15] See paragraph 52 of CPT/Inf (2006) 18.

[16] This procedure is based on Section 226 (1) of the CCP in force.

[17] Section 30 of the Rules on Police Powers states: “The records should include: the detainee’s personal information; the starting and ending time of detention; the grounds for transporting and detaining the person; confirmation that the detainee was informed of the grounds for being transported and detained, and was advised of his rights; the rights asserted by or on behalf of the detainee, and notification to competent institutions (time, name of institution, manner of notification); transportation of the detainee before an authority having jurisdiction; visible injuries or other indications that the detainee required medical attention; whether the detainee received medical attention or first aid (from whom, when and why); dangerous objects removed for the safety of the detainee; termination of detention. The official record shall be signed by the detaining officer and the detainee.”

[18] The first national Ombudsman (Protector of Citizens) was appointed in July 2007 and, at the time of the visit, was still in the process of organising his office. He was planning to start visits to places of deprivation of liberty (including police establishments) as from 2008.

[19] There was a system of regular internal inspections, by the Police Division of Internal Affairs and the Ministry’s Inspectorate General.

[20] The temperature measured inside the cell in the early afternoon of 24 November 2007 was barely 11°C.

[21] It is noteworthy that, according to Section 36 (1) of the Rules on Police Powers, food should be offered to all persons detained in a police establishment for longer than 12 hours.

[22] See, however, the allegations concerning police stations in Belgrade, paragraph 34.

[23] At Belgrade District Prison, many inmates interviewed had already spent more than 3 years in the remand section, some prisoners had spent more than 5 years, and three inmates almost 7 years (since February 2001).

[24] Now officially called the “Special Prison Hospital”.

[25] Pavilion III also contained the admission unit at the time of the 2007 visit.

[26] See also paragraphs 107 and 108.

[27] Accommodating 79 inmates at the time of the visit, compared to the official capacity of 120.

[28] At the time of the visit, it was accommodating 373 inmates; before renovation the maximum capacity had been 480 places, i.e. 6 dormitories for 80 inmates; the planned capacity after renovation was 380.

[29] The “drug-free” unit also possessed a large exercise yard and its own sports facilities.

[30] It should also be mentioned that the remand section was used to accommodate persons imprisoned for misdemeanours.

[31] E.g. additional parcels, additional visits and a broader circle of permitted visitors, additional unsupervised visits (in the short-term visiting rooms or in special rooms for private visits), better accommodation.

[32] Concerning the new “drug-free” unit at the Special Prison Hospital in Belgrade, see paragraph 89.

[33] At the end of the visit, the delegation requested the Serbian authorities to provide further information on the above-mentioned case; this information was provided by the authorities in their letter of 11 January 2008.

[34] At the time of the 2004 visit, its official name was Correctional Penal Facility "Prison Hospital".

[35] See paragraphs 146 to 168 of CPT/Inf (2006) 18.

[36] Up to 21 times per month in Wards A and B.

[37] Sometimes with the instruction for nurses and custodial staff to allow the patient to go to the toilet.

[38] It is to be noted that the patient who had been restrained at night during 1.5 years was incontinent (see paragraph 86).

[39] It should nevertheless be stressed that, while applying restraints, custodial staff acted under the instructions of the doctor, and a nurse was always present.

[40] 4 times in 2005, once in 2006 and once until 20 November 2007.

[41] Admittedly, this was partly due to the temporary closing for refurbishment of one of the sections in Ward B.

[42] Section 181 (2) of the CCP stipulates that all prisoners should be offered at least 2 hours of outdoor exercise per day.

[43] Except for emergencies, psychiatric treatment was not provided to patients in the assessment ward.

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

[45] According to the information provided by the hospital’s director, 11 doctors had been recruited since 2004 but 6 doctors had resigned in the meantime, apparently because of low salaries.

[46] I.e. 5 more than in 2004. The doctors were assisted by two X-ray technicians, two dental technicians, two pharmacy technicians and 5 laboratory technicians.

[47] As regards inspection procedures, reference is made to the comments in paragraph 110.

[48] In particular, as regards visits, the new CCP stipulates that "upon the approval of the investigative judge and under his supervision or supervision of assigned persons, within the limits of the house rules of the institution, a prisoner can be visited by a spouse or common-law partner, as well as his close relatives, and based on his demand – by a physician and other persons. Certain visits can be prohibited if it is prejudicial for the course of the proceeding".

[49] See also paragraph 67.

[50] See Sections 80 to 83 of the House Rules of Correctional Facilities and District Prisons.

[51] Rule 43 of the revised European Prison Rules states: “43.1 The medical practitioner shall have the care of the physical and mental health of the prisoners and shall see, under the conditions and with a frequency consistent with health care standards in the community, all sick prisoners, all who report illness or injury and any prisoner to whom attention is specially directed. 43.2 The medical practitioner or a qualified nurse reporting to such a medical practitioner shall pay particular attention to the health of prisoners held under conditions of solitary confinement, shall visit such prisoners daily, and shall provide them with prompt medical assistance and treatment at the request of such prisoners or the prison staff. 43.3 The medical practitioner shall report to the director whenever it is considered that a prisoner's physical or mental health is being put seriously at risk by continued imprisonment or by any condition of imprisonment, including conditions of solitary confinement.”

[52] In addition, penitentiary establishments can be visited by a number of NGOs, pursuant to special agreements with the Administration for the Execution of Penal Sanctions.

[53] The official name of this ward was a hangover from the past; at the time of the visit, it was in fact accommodating patients suffering from mild psychoses and personality disorders.

[54] Referred to by staff as the “Norwegian” ward.

[55] Which in fact operated as a ward for the general population of the region; it was not visited by the delegation.

[56] The European Community Humanitarian Aid Department.

[57] 450 to 600 RSD per day, paid by the patients themselves, their families or their health insurance.

[58] Neuroleptic malignant syndrome (NMS) is a life-threatening, neurological disorder most often caused by an adverse reaction to neuroleptic or antipsychotic drugs. It generally presents with muscle rigidity, fever, autonomic instability and cognitive changes such as delirium, and is proven on a raised creatine phosphokinase (CPK). Treatment is generally supportive.

[59] In addition, psychiatric patients arriving to the hospital with a somatic condition requiring treatment could on occasion be directly admitted to the somatic ward, before being accommodated in one of the psychiatric wards.

[60] E.g. 115 times on the acute male ward (between 1 June and 21 November 2007) and 170 times on the acute female ward, in the period between 1 February and 21 November 2007.

[61] See also paragraphs 36 to 54 of the 16<sup>th</sup> General Report on the CPT's activities (CPT/Inf (2006) 35).

[62] CPT/Inf (2006) 19.

[63] Composed of two psychiatrists from the ward to which the patient has been admitted, and third psychiatrist from another ward.

[64] They contained the following sentence: “I accept all diagnostic and therapeutic measures that will be applied to me”.

[65] The residents had come from the whole of former Yugoslavia, except Slovenia.

[66] There were 99 residents aged 6 – 18, and 98 aged 19 – 27.

[67] 123 residents had spent more than 20 years, 149 more than 11 years, and 99 more than 6 years.

[68] There had been 5 admissions and 5 releases between 1 January and 26 November 2007.

[69] 22 admissions and 2 releases in 2006, 23 admissions and 3 releases in 2005, and 13 admissions and 2 releases in 2004.

[70] In addition, one female resident lived autonomously on the territory of the Institution, in a well furnished and pleasantly decorated small house provided to her by the establishment.

[71] Since 2005, there had been 3 cases, including two in which a criminal inquiry was initiated (one case involved a suspicion of deliberate burning of a resident with hot water in the shower; the other case – hitting a resident with a broomstick, which resulted in injuries on his shoulder, knee and left foot). As a result, one orderly was sentenced to a conditional 3-month prison sentence; proceedings were still ongoing in respect of the other orderly. However, pending the outcome of these proceedings, the Institution’s director decided to remove the orderly from work in contact with residents.

[72] Called so because it had been refurbished by the French Red Cross in December 2001.

[73] 24 residents and 21 beds in Pavillion E; 22 residents and 20 beds in Pavillion D; 27 residents and 26 beds in Pavillion F.

[74] E.g. 3 residents in a room of 13 m<sup>2</sup>; 9 in a room measuring 33 m<sup>2</sup>.

[75] See, however, the remark in paragraph 157 concerning Pavillion A.

[76] Since September 2007, a re-evaluation of psychiatric diagnoses had been initiated but had not yet been finished at the time of the visit.

[77] A hepatitis B vaccination campaign had started recently, and 94 residents had been vaccinated by the time of the visit.

[78] There were no residents with a detected TB at the establishment at the time of the visit.

[79] I.e. a special educator trained to work with persons with a learning disability.

[80] In the residents’ “psychiatric files”, which were kept by the neuro-psychiatrist in addition to the medical files.

[81] This would also allow the staff to defend themselves against unfounded accusations of ill-treatment.

[82] See Article 5, paragraph 4, of the European Convention on Human Rights.

[83] That said, at the Special Institution in Stannica the delegation was informed that all the residents were in principle fully incapacitated.

[84] Sections 329 and 332 (4) of the LF.

[85] Sections 333 and 336 to 338 of the LF.

[86] Sections 133, 142, and 329 to 333 of the LF.

[87] Including long-term family visits of up to 2 days, which took place in well equipped rooms.