

## **Report**

**to the Government of  
“the former Yugoslav Republic of Macedonia”  
on the visit to “the former Yugoslav Republic of  
Macedonia” carried out by the European Committee  
for the Prevention of Torture and Inhuman  
or Degrading Treatment or Punishment (CPT)**

**from 7 to 17 October 2014**

The Government of “the former Yugoslav Republic of Macedonia” has requested the publication of this report and of its response. The Government’s response is set out in document CPT/Inf (2016) 9.

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

Mr Petar Pop-Arsov  
Ambassador Extraordinary and Plenipotentiary  
Permanent Representative of  
“the former Yugoslav Republic of Macedonia”  
to the Council of Europe  
13 rue André Jung  
67000 Strasbourg

Strasbourg, 25 March 2015

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 have the honour to enclose herewith the report drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its visit to “the former Yugoslav Republic of Macedonia” from 7 to 17 October 2014. The report was adopted by the CPT at its 86<sup>th</sup> meeting, held from 3 to 6 March 2015.

The various recommendations, comments and requests for information formulated by the CPT are highlighted in bold in the body of the report. As regards more particularly the CPT's recommendations, having regard to Article 10, paragraph 1, of the Convention, the Committee requests the national 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 national authorities to provide, in the above-mentioned response, reactions to the comments and requests for information formulated in this report.

In respect of the recommendation contained in paragraph 122, the CPT requests that a response be provided **within three months**. It also trusts that the national authorities will be in a position to provide the first quarterly reports with regard to the requests for information made in paragraphs 28 and 48.

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

Yours sincerely,

Mykola Gnatovskyy  
President of the European Committee for the  
Prevention of Torture and Inhuman  
or Degrading Treatment or Punishment

## **EXECUTIVE SUMMARY**

The CPT's fifth periodic visit to "the former Yugoslav Republic of Macedonia" provided an opportunity to assess progress made since the Committee's 2010 and 2011 visits. To this end, the CPT's delegation examined the treatment and conditions of detention of persons in prisons, as well as of residents in social care homes and patients in psychiatric hospitals. It also examined the treatment of juveniles in detention. Further, the delegation visited a number of police stations to look into the conditions of detention and the safeguards in place and it visited, for the first time, the Reception Centre for Foreigners in Skopje.

The co-operation received from the national authorities throughout the visit was generally very good. However, cooperation also entails that recommendations made by the Committee are effectively implemented. Regrettably, no fundamental progress has been made to improve the situation in prisons and, in many aspects, the situation has further deteriorated since 2011, notably as regards Idrizovo Prison and the "Tetovo" Educational Correctional Institution. Further, several longstanding recommendations regarding the amelioration of living conditions of persons in psychiatric and social care establishments and the legal safeguards surrounding their placement therein have not been addressed. The CPT stresses that a persistent non-implementation of its recommendations will leave it with no choice but to set in motion the procedure provided for in Article 10, paragraph 2, of the Convention.

### **Law enforcement agencies**

The majority of persons interviewed by the delegation had no complaints about the way in which they had been treated by the police. Nevertheless, some credible allegations were received of deliberate physical ill-treatment by police officers, in particular at the time of apprehension. The findings of the visit indicate the necessity for the authorities to remain vigilant and to pursue a determined action in order to eradicate the problem of police ill-treatment. The Committee also makes recommendations on the role of prosecutors and judges in the prevention of ill-treatment.

In general, there had been an improvement in the practical operation of fundamental safeguards against ill-treatment. However, further progress is still required to ensure that all persons deprived of their liberty by the police have an effective right of access to a lawyer, unimpeded access to a doctor and the possibility to inform a third person of their detention from the very outset of deprivation of liberty.

In most of the nine police establishment visited, the material conditions remained sub-standard and displayed a series of serious shortcomings; the authorities should take steps to remedy them.

### **Prison establishments**

While noting the information provided with regard to the strategic reform of the prison system, the Committee is deeply concerned by the situation prevailing in the prisons visited.

A great number of consistent allegations of deliberate ill-treatment of inmates by custodial staff were received at Idrizovo Prison; the physical violence was purportedly used as a tool to impose discipline. The authorities should put in place a comprehensive policy for the identification and investigation of allegations of ill-treatment. The CPT's delegation also found that inter-prisoner violence at Idrizovo Prison remained worrying, with newly-arrived prisoners sentenced for sexual offences systematically ill-treated by other inmates as an initiation ritual. By contrast, no allegations of ill-treatment by staff were heard at Tetovo, Kumanovo and Ohrid Prisons, and only a few allegations were received at the remand section of Skopje Prison.

As regards staffing issues, the Committee emphasises that insufficient staffing levels and the lack of training and support provided to staff are intrinsically linked to problems highlighted in the report such as ill-treatment, inter-prisoner violence and a lack of activities. This state of affairs was most evident at Idrizovo Prison where there were only 218 prison officers for a population of some 1,600 inmates. Moreover, a professional management career path within the prison system still does not exist.

In most parts of Idrizovo Prison, the material conditions remained totally unacceptable and in certain wings could be described as amounting to inhuman and degrading treatment. The accommodation units were in an extremely poor state of repair and hygiene, infested with vermin, overcrowded and lacking basic furnishings (including beds and mattresses). As regards the remand section of Skopje Prison, most parts were in a poor state of repair and hygiene, overcrowded and the cells lacked sufficient lighting and ventilation. The recently-opened Kumanovo Prison had the potential to provide acceptable conditions but was already showing signs of wear and tear and experiencing problems with water supply. The CPT is once again critical of the lack of action to improve the material conditions in the remand section of Tetovo Prison and also highlights certain deficiencies in relation to Ohrid Prison.

No improvement was observed by the delegation as regards the regime offered to prisoners. More particularly, remand prisoners (including juveniles) were proposed no activities and continued to spend 22 hours per day confined to their cells, while sentenced prisoners were hardly offered any purposeful activities. The CPT also found the situation of juveniles held in the remand sections of Kumanovo and Skopje Prisons to be totally unacceptable. Juveniles who have to be deprived of their liberty should be held in detention centres specifically designed for persons of this age, offering a non-prison-like environment and a full programme of structured activities tailored to their needs and staffed by persons trained in dealing with the young. Steps should be taken to remedy the current situation.

As regards health-care services in prisons, insufficient staffing levels were a feature in several establishments and medical screening of inmates upon their admission to prison was not always carried out within 24 hours or include a physical examination. Recommendations are also made to improve the reporting and recording of injuries, to respect medical confidentiality during medical examinations and to review the management of the methadone maintenance programme at Idrizovo Prison. Moreover, the CPT's delegation again came across a case of a vulnerable mentally-ill prisoner at Skopje Remand Prison who was not receiving the care he required and who had been hand and ankle-cuffed to a bed for prolonged periods. In the CPT's view, such treatment could be considered inhuman and degrading.

As for contacts with the outside world, recommendations are made to increase the inadequate visiting entitlements offered to remand and sentenced prisoners to at least one hour of visits per week, to improve the conditions under which such visits take place and to grant regular and frequent access to the telephone to both remand and sentenced prisoners.

### **The situation of juveniles held at the “Tetovo” Educational Correctional Institution**

The CPT’s follow-up visit to the “Tetovo” Educational Correctional Institution, located since October 2010 in the town of Veles, showed that the situation at the establishment was totally unacceptable.

In particular, the delegation heard many allegations of physical ill-treatment by custodial staff, reportedly inflicted as an informal punishment for misbehaviour. Moreover, it appeared that staff took no action when allegations of ill-treatment were brought to their attention. All forms of physical chastisement are unacceptable and the Committee recommends that the national authorities put in place a comprehensive policy for the identification and investigation of allegations of ill-treatment, with clear reporting lines to the prosecutorial authorities. The passive approach of senior staff is further illustrated by a recent case of rape of one juvenile by four other inmates and the fact that the victim was exposed to the possibility of further violence and intimidation by the suspects.

Despite some efforts made by the staff, juveniles were provided with nothing that remotely resembled a programme of structured activities, and spent virtually all their time in idleness. Steps must be taken to ensure that all juveniles deprived of their liberty are offered a full programme of education, sport, vocational training, recreation and other purposeful and structured activities. Further, the material conditions in the Institution had deteriorated since 2011; decrepit dormitories, sanitary facilities in an appalling state of hygiene and non-functioning central heating. The Committee requests confirmation that the measures announced following the visit to address the shortcomings have been implemented.

As regards staffing at the Institution, the CPT is concerned that the combination of poor working conditions, long shifts, passive custodial duties and lack of direct managerial supervision and support, coupled with the additional burden of regular commuting from Tetovo to Veles can easily lead inter alia to staff burnout and generate an insecure environment for staff and juveniles. Such a state of affairs has endured for 13 years; it should be brought to an end immediately. Recommendations are also made to improve the provision of health-care services and to increase juveniles’ contact with the outside world, and to amend the relevant legislation to ensure that solitary confinement as a disciplinary sanction for juveniles never exceeds three days.

### **Detention of foreign nationals under aliens legislation**

At the time of the 2014 visit, the Reception Centre in Skopje was seriously overcrowded and the conditions in which the men, women and children (including 13 unaccompanied minors) were held could be described as amounting to inhuman and degrading treatment.

Numerous, consistent and credible allegations of ill-treatment of foreign nationals by staff were received by the delegation. Further, episodes of inter-detainee violence were not infrequent in light of the high occupancy levels at the establishment and the apparent inability of custodial staff to manage the situation.



The Reception Centre offered extremely poor conditions of detention, notably dilapidated furniture and sanitary facilities, insufficient number of beds, irregular provision and poor quality of food, absence of personal hygiene and cleaning products. Further, no organised activities were offered and access to outdoor exercise was rare. Moreover, no special arrangements were made for families and children. In addition to taking steps to improve the conditions in the Centre, the CPT recommends that the authorities should avoid as far as possible detaining migrant families, and that any detained unaccompanied minors be placed in an appropriate child-friendly environment.

The CPT also stresses the necessity for staff at the centre to receive adequate training on interpersonal skills and cross-cultural communication, and for the numbers to be reviewed. Health-care services should be reorganized and improved, the presence of the general practitioner increased and two full-time nurses recruited. As regards legal safeguards, the Committee calls upon the authorities to strengthen their effectiveness, notably as regards access to a lawyer, the provision of information on their situation and the introduction of periodic judicial reviews.

### **Psychiatric establishments**

The overall atmosphere at Demir Hisar Psychiatric Hospital had improved since the CPT's visit in 2010. However, several allegations of ill-treatment of patients by staff consisting mainly of slaps, punches and kicks were received, while at Ward II of Skopje Psychiatric Hospital, numerous allegations of such ill-treatment were heard and inter-patient violence on this Ward was a serious problem. The national authorities should take the necessary measures to address these issues.

The living conditions in the wards of both hospitals visited remained, with some exceptions, poor, exacerbated by the austere and depersonalised environment as well as the overcrowding. As regards activities, some improvements were noticed at Demir Hisar Psychiatric Hospital, where more patients appeared to be involved in the wide range of workshops on offer. However, at Ward II of Skopje Psychiatric Hospital no activities of any kind were available. Further, at neither hospital were patients being offered at least one hour of outdoor exercise every day.

There is a continued need to increase staffing levels, particularly during afternoons and at night. Further, the application of means of restraint should respect the precepts enumerated by the Committee. The CPT also reiterates the importance of instituting a practice of carrying out a thorough inquiry into every death of a patient, which should include an autopsy. Legal safeguards for involuntary hospitalised patients should be reinforced and the extensive practice of pressuring patients to sign voluntary consent forms on hospitalization, resulting in their *de facto* deprivation of their liberty, should be ended.

### **Social care establishments**

At Demir Kapija Special Institution, positive relations existed between staff and residents. Living conditions varied across the establishment, ranging from satisfactory in the A wards to extremely poor in the C wards where premises were found to be seriously dilapidated, unhygienic and insalubrious and a number of residents did not have their own bed. The CPT requests that the C wards be refurbished as a matter of priority. On the other hand, certain improvements were noted in terms of activities on offer to residents.

However, the health-care needs of residents, including the ones affected by the highest level of mental retardation, were still not adequately addressed. The CPT calls upon the authorities to meet residents' long-term health-care needs, which will require inter alia the recruitment of a full-time general practitioner. Further, the staffing levels of orderlies should be reinforced on the C wards.

As regards guardianship, the CPT is critical of the fact that residents subject to the removal of their legal capacity were not heard in person by the court, did not receive a copy of the court decision and were not informed of the possibility to appeal against the court decision. Nor were there any automatic reviews of the court decisions. Further, representatives of the social work centres still did not visit regularly the persons under their care nor act effectively in their interests. Steps need to be taken to address these matters.

At the Public Institution "Ranka Milanovic", a caring and relaxed attitude on the part of staff towards young persons was observed. That said, allegations of slaps and verbal abuse by an educator were received. Further, the living conditions required urgent improvement, notably to replace the poor furniture, repair the damaged sanitary facilities, provide greater visual stimuli in the accommodation units and increase the range of recreational and vocational activities on offer to young persons.

## **I. INTRODUCTION**

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

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as "the Convention"), a delegation of the CPT carried out a visit to "the former Yugoslav Republic of Macedonia" from 7 to 17 October 2014. The visit formed part of the Committee's programme of periodic visits for 2014, and was the CPT's eleventh visit to "the former Yugoslav Republic of Macedonia".<sup>1</sup>

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

- Mykola GNATOVSKYY, 2<sup>nd</sup> Vice-President of the CPT and Head of delegation
- Georg HØYER
- Natalia KHUTORSKAYA
- James McMANUS
- Vytautas RAŠKAUSKAS
- Dubravka SALČIĆ
- Davor STRINOVIC.

They were supported by Petr HNATIK and Christian LODA of the CPT's Secretariat, and assisted by:

- Natasa KOLEVSKA GEORGIEVSKA (interpreter),
- Natalija KUNOVSKA CINGARSKA (interpreter),
- Vladimir OGNJANOVSKI (interpreter),
- Jasna ŠOPTRAJANOVA VRTEVA (interpreter),
- Blerina STAROVA SLATKU (interpreter).

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<sup>1</sup>

The CPT has previously carried out four periodic visits (1998, 2002, 2006 and 2010) and six ad hoc visits to the country. The reports on these visits and the responses of the national authorities have all been made public upon request by the authorities, and are available on the Committee's website ([www.cpt.coe.int](http://www.cpt.coe.int)).

**B. Establishments visited**

3. The delegation visited the following places:

*Police establishments*

- Bitola Police Station
- Kičevo Police Station
- Kriva Palanka Police Station
- Kumanovo Police Station
- Ohrid Police Station
- Prilep Police Station
- Skopje Gazi Baba Police Station
- Struga Police Station
- Veles Police Station

*Penitentiary establishments*

- Idrizovo Prison
- Kumanovo Prison
- Ohrid Prison
- Skopje Prison (remand section)
- Tetovo Prison
- Tetovo Education Correctional Institution (located in Veles)

*Institutions under the authority of the Ministry of Health*

- Demir Hisar Psychiatric Hospital
- Skopje Psychiatric Hospital (Bardovci) – targeted visit to Ward II for male patients

*Institutions under the authority of the Ministry of Labour and Social Policy*

- Demir Kapija Social Care Home
- “Ranka Milanovic” Public Institution for the caring, bringing up and education of children and adolescents, Skopje

*Detention centres for foreigners*

- Reception Centre for Foreigners, Skopje

**C. Consultations held by the delegation**

4. The delegation held consultations with Gordana JANKULOVSKA, Minister of the Interior, Adnan JASHARI, Minister of Justice and Dime SPASOV, Minister of Labour and Social Policy. It also met Lidija GAVRILOSKA, Director of the Directorate for the Execution of Sanctions and Nikica PANOVA, Head of Sector for Secondary Health-care at the Ministry of Health, as well as other senior officials from relevant ministries. In addition, discussions were held with the Ombudsman, Ihxet MEMETI, and representatives from the National Preventive Mechanism. The delegation also met representatives of non-governmental organisations active in areas of interest to the CPT.

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

**D. Cooperation between the CPT and national authorities**

5. The cooperation received by the CPT's delegation throughout the visit, from both the national authorities and staff at the establishments visited, was generally very good. The delegation enjoyed rapid access to all places of deprivation of liberty it wished to visit, to the documentation it wanted to consult and to individuals to whom it wished to talk in private.

In particular, the delegation would like to thank the CPT liaison officer, Ms Olgica VASILEVSKA, for the assistance provided by her during the visit.

That said, it is a matter of concern that at Idrizovo Prison, the delegation received misleading information as regards the situation in the establishment's admission unit (see paragraph 45). **The CPT trusts that the national authorities will take the necessary steps to ensure that future visiting delegations are provided with full and accurate information concerning the situation in the establishments visited.**

In addition, it was regrettable that the senior political level of the Ministry of Health was not available at the end of the visit which meant that the CPT's delegation was not able to present its preliminary observations at an appropriate level despite a specific request for that purpose. **The CPT trusts that on future visits, its delegations will be able to meet the most senior-ranking officials from the Ministry of Health.**

6. As the CPT has made clear in the past, the principle of cooperation is not limited to steps taken to facilitate the task of visiting delegations, but also requires that recommendations made by the Committee are effectively implemented in practice.

In the course of its 2014 periodic visit, the CPT's delegation observed a continuation of the positive trend towards an improvement in the professionalism of police officers and an improvement in the practical operation of fundamental safeguards against ill-treatment of persons deprived of their liberty by the police (see paragraphs 11 and 17, respectively).

However, the delegation was concerned to find that, despite the opening of the new prison in Kumanovo, no fundamental progress had been made to improve the situation in prisons in the light of the Committee's previous recommendations. In many aspects, the situation had further deteriorated since the last visit in 2011, notably as regards Idrizovo Prison which holds almost 60 per cent of the country's prison population.

Moreover, several longstanding recommendations by the Committee regarding the amelioration of living conditions, and legal safeguards surrounding the placement, of persons in psychiatric and social care establishments have not been addressed.

**The CPT must stress that a persistent non-implementation of its recommendations by the national authorities will leave the Committee with no choice but to set in motion the procedure provided for in Article 10, paragraph 2, of the Convention<sup>2</sup>. The Committee trusts that the action taken in response to this report will render such a step unnecessary.**

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

7. On 17 October 2014, the CPT's delegation met representatives of the national authorities in Skopje to inform them of the delegation's main findings. On that occasion, the CPT's delegation made eight immediate observations under Article 8, paragraph 5, of the Convention, notably:

- to take the detention cells at Kičevo and Ohrid Police Stations out of use until they are provided with access to light and appropriate heating and ventilation as well as to stop overnight detention at Kriva Palanka Police Station until it is equipped with a suitable detention facility;
- to ensure that unaccompanied minors are not detained at the Reception Centre for Foreigners in Skopje and are placed in an appropriate child-centred environment as well as to ensure that irregular migrant families are not separated and are instead accommodated together in appropriate facilities which can provide the necessary care and support;
- to ensure that all inmates held in the remand section of Skopje Prison are provided with appropriate cutlery for eating and that the heating in the establishment is operational;
- to significantly improve the material conditions at Idrizovo Prison and, in particular, to ensure that: all inmates are provided with their own bed, a mattress and clean bedding; every toilet is fitted with a functional flush and all showers are fixed; and that all accommodation areas of the prison are provided with functional heating devices;
- to significantly improve the material conditions at Tetovo Educational Correctional Institution for Juveniles, and in particular to ensure that: the premises are properly heated; sanitary facilities are kept clean and function properly; dormitories are equipped, in addition to beds, with tables and chairs commensurate with the number of juveniles held therein and each juvenile is provided with personal lockable space; and that the disciplinary cells are immediately taken out of use;

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<sup>2</sup> Article 10, paragraph 2, reads as follows: "If the Party fails to co-operate or refuses to improve the situation in the light of the Committee's recommendations, the Committee may decide, after the Party has had an opportunity to make known its views, by a majority of two-thirds of its members to make a public statement on the matter."

- to transfer the disabled prisoner met by the CPT's delegation in an ordinary cell of Skopje Prison to an environment where he will receive appropriate care;
- to improve the material conditions on wards III, IV, V and VIII at Demir Hisar Psychiatric Hospital;
- to refurbish the C wards of Demir Kapija Special Institution and to reinforce the staffing levels on the same wards.

8. These requests were confirmed in a letter dated 10 November 2014. The authorities of "the former Yugoslav Republic of Macedonia" supplied the documents and information requested in two communications dated 6 and 26 January 2015. The information contained in those responses has been taken into account in the drafting of this report.

#### **F. National Preventive Mechanism**

9. "The former Yugoslav Republic of Macedonia" ratified the Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) in December 2008 and designated the Ombudsman institution as the National Preventive Mechanism (NPM). Following the adoption of the necessary amendments to the Law on the Ombudsman in September 2009, a separate unit for the protection of citizens against torture and other cruel, inhuman or degrading treatment was created within the institution and mandated to fulfil NPM-related tasks. The NPM began its operation in April 2011 but it was only in 2013 that a dedicated budget line was created for the conduct of NPM-related operations.

At the time of the 2014 visit, the above-mentioned dedicated unit was staffed by two legal advisors, who performed exclusively NPM-related duties, and one additional position was vacant. The CPT's delegation was informed that the NPM had conducted 19 visits to different police, psychiatric, prison, social welfare and immigration establishments up to October 2014 and was relying on the assistance of several professional experts (in the field of psychiatry, forensic medicine and criminology), and occasionally invited NGO representatives to join its visiting delegations. However, the dedicated financial means allocated to the NPM unit were not sufficient to cover the expenses related to expert fees, and additional funds had to be diverted from the Ombudsman core budget in order to fulfil its planned annual operations. In the CPT's view, adequate resources are essential for the functioning of the NPM having regard notably to the Guidelines adopted by the UN Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) in November 2010.<sup>3</sup>

**The CPT invites the authorities to take the necessary steps to ensure that the vacant post in the dedicated NPM department of the Ombudsman is filled and that adequate financial resources are allocated to the NPM department in order to permit the NPM to fulfil its tasks.**

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<sup>3</sup> Paragraph 11 of the Guidelines reads as follows: "the necessary resources should be provided to permit the effective operation of the NPM."

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

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

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

10. The basic legal framework governing the deprivation of liberty by the police is laid down by the 2006 Law on the Police and the 2010 Criminal Procedure Code (which came into force approximately one year prior to the CPT's 2014 visit to the country).

The detention by the police of a person suspected of having committed a criminal offence must be notified to the public prosecutor within six hours and the suspect must be brought before a judge within 24 hours of his/her deprivation of liberty. The judge may remand the person in custody or order the person's release and the relevant decision must be served on the person within six hours of the hearing.

Persons caught while committing a misdemeanour may be detained by the police for up to 12 hours and persons under the influence of alcohol or psychotropic substances for up to eight hours. Foreign nationals may be held in police custody under aliens legislation for up to 12 hours; within that period, they must be brought before a specialised misdemeanour judge. A person may also be detained by the police for the time needed for establishing his/her identity, but for no longer than three hours.

In the course of the 2014 visit, the delegation did not gather any information which would suggest that the statutory time-limits for police custody were not respected in practice in the police stations visited.

#### **2. Ill-treatment**

11. The majority of persons interviewed by the delegation during the visit who had recently been in police custody had no complaints about the way in which they had been treated by police officers. Indeed, this would confirm the positive trend that had already been observed during the 2010 visit towards an improvement in the professionalism of police officers.

Nevertheless, some credible allegations were still received of deliberate physical ill-treatment by police officers of persons deprived of their liberty. In the majority of cases, the ill-treatment was said to have been inflicted at the time of apprehension by the police and took the form of kicks to the back of the head, chest, ribs, stomach and legs, as well as stepping on the apprehended person's back, even when the person concerned allegedly displayed no resistance or after he/she had been brought under control, had been handcuffed and had been forced to lie prone on the ground.

Further, some allegations were received of physical ill-treatment (such as slaps, punches and blows with a baton to various parts of the body) during subsequent questioning of suspects at police premises; the ill-treatment was apparently linked to attempts to extract a confession or obtain information relevant to the investigation.



A few allegations were also heard of verbal abuse by police officers of detainees, in particular of Roma.

12. Although the medical screening of newly arrived prisoners is still not being carried out rigorously (see paragraph 77) and the relevant medical files in the prisons visited were thus of limited value for assessing treatment received at the time of police custody, some of the allegations of ill-treatment were supported by medical records seen by the delegation which had been made by health-care staff upon the arrival of the persons concerned at remand prisons. By way of example, reference is made to the following cases:

i) A person against whom a search warrant had been issued by the court and who tried to run away when the police attempted to apprehend him in the street in Tetovo on 24 June 2014, alleged that he was subjected to a blow with a baton to the back of his head and fell to the ground where he was handcuffed. Subsequently, he received kicks and baton blows all over his body from four uniformed police officers. The beating only stopped when he apparently started spitting blood. At Tetovo Police Station, police officers called an ambulance and the person concerned was examined by a medical doctor who allegedly warned the police officers to stop beating the detainee.

The person concerned was held overnight at Tetovo Police Station, during which time police officers allegedly mocked him, made derisive comments about pictures found on his mobile phone and refused his requests for water. The medical record made on admission to Idrizovo Prison the following day stated that the person had been injured during the apprehension and the subsequent transfer to the police station and that he displayed bruises on his head and back. He was then sent to a hospital in Tetovo for an X-ray of his head.

ii) Two persons apprehended in a taxi on their way to Kriva Palanka from a nearby village at about 9 p.m. on 10 March 2014 alleged, in interviews carried out separately (the inmates concerned thus having no opportunity to co-ordinate their stories), that when entering Kriva Palanka Police Station, they were repeatedly slapped and punched about the head and body by police officers. They were then forced to stand facing the wall in the corridor of the police station and had their hair repeatedly pulled, before being interviewed separately by police officers.

One of the detained persons was taken to an office on the first floor; during the interview, his head was allegedly banged against a table and he was repeatedly slapped in his face by a police officer. Later, another police officer continued the interview and again allegedly slapped the detainee, apparently forcing him to sign a confession. While leaving the office after the interview, the detainee purportedly received a kick to his buttocks. He was then placed in a fenced-off space on the ground floor corridor where he spent the night sitting on a chair (for a more detailed description of the space, see paragraph 23).

The second person alleged that while being interviewed in an office on the ground floor by five or six police officers (both uniformed and plain-clothed), with one hand cuffed to the black metal frame of a table, he received several slaps and punches to the head and torso, as well as being hit with a rubber baton to his head and right ear. Following the interview, he was placed in a basement cell for some two to three hours and again interviewed, at about 2 a.m., in the same office on the ground floor. During the second interview, he allegedly again received several slaps and punches in order to force him to sign some documents. He spent the rest of the night in the basement cell. In the morning, he was taken to an office on the first floor where he was given additional documents to sign and was again hit with a rubber baton.

This second person further alleged that when he was placed in the basement cell, police officers took away all his blankets and that during the time he spent in the police station, all his requests to be provided with water were refused. Both persons also alleged that they were refused access to a lawyer and were permitted to contact their families only just prior to appearing before a judge.

When the detained persons appeared before a judge on the day following their apprehension by the police, the judge did not ask about the origin of the visible injuries (swelling and bruises in their face) they allegedly displayed. Moreover, they were purportedly only examined by a health-care professional several days after their admission to the remand section of Kumanovo Prison.

It should be noted that the detailed description of the offices and the detention area and cells given by the two persons concerned, as well as additional details concerning their apprehension (e.g. time of apprehension or of the repeated interrogations) were confirmed during the delegation's visit to Kriva Palanka Police Station and the examination of the relevant registers.

13. In sum, the findings of the 2014 visit again highlight the necessity for the authorities to remain vigilant and to pursue determined action to eradicate completely the problem of police ill-treatment. It is essential that police officers view ill-treatment as an unprofessional means of carrying out their duties, as well as being a criminal act. There should be a clear understanding among police officers that all forms of ill-treatment are an affront to the human dignity of both the victim and the perpetrator and that resort to ill-treatment is a fundamentally flawed method of obtaining reliable evidence for combating crime.

An instruction should periodically be sent by the Chief of Police explicitly reminding police officers that ill-treatment of detained persons is illegal and will be the subject of severe sanctions. Police officers should also be reminded that no more force than is strictly necessary should be used when effecting an apprehension and that, once apprehended persons have been brought under control, there can be no justification for their being struck. This message of zero tolerance of ill-treatment of detained persons should be backed up at the political level (e.g. the Minister of the Interior).

**The CPT reiterates its recommendation that the national authorities strenuously reiterate the message of zero tolerance of ill-treatment of persons deprived of their liberty and reinforce it with a statement at the appropriate political level.**

14. The information gathered during the 2014 visit again indicates that prosecutors and judges did not act upon claims of ill-treatment by the police when they were brought to their attention, nor did they ask about the origin of visible injuries displayed by persons brought before them (see, e.g., the case described in paragraph 12 (ii)).

As stressed in previous reports, it is imperative that prosecutors and judges take appropriate action whenever they have reason to believe that a person brought before them may have been subjected to ill-treatment. More particularly, whenever persons brought before them allege ill-treatment by law enforcement officials, the prosecutor/judge 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. Moreover, even in the absence of an express allegation of ill-treatment, prosecutors and judges should ensure that the same procedure is followed whenever there are other grounds (e.g. visible injuries, a person's appearance or demeanour) to believe that a criminal suspect brought before them has been ill-treated.

**The CPT calls upon the national authorities to deliver, through the appropriate channels, a clear message to prosecutors and judges reminding them of their obligation to take appropriate action whenever they receive information indicative of ill-treatment.**

15. In the report on the 2010 visit,<sup>4</sup> the CPT described the case of alleged ill-treatment by the police of a detainee following apprehension and prior to his arrival at Gostivar Police Station. At the beginning of the 2014 visit, the national authorities indicated to the CPT's delegation that an indictment had been filed shortly before the visit against three police officers and a civilian involved in the case. **The CPT would like to receive updated information concerning this case.**

16. In the interview rooms at Bitola and Prilep police stations, the CPT's delegation found a number of unlabelled items such as baseball bats, pliers, crowbars and car batteries, as well as imitation firearms and loaded guns. The police officers indicated that these items had been seized during criminal investigations or that they belonged to police officers.

Apart from inviting speculation about improper conduct on the part of police officers, objects of this kind are a potential source of danger to staff and criminal suspects alike. Items of property seized during criminal investigations should be entered in a separate register, properly labelled (identifying the case to which they refer) and stored in a dedicated property store.

**The CPT recommends that all non-standard issue items capable of being used for inflicting ill-treatment be removed from police premises where persons may be held or questioned.**

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<sup>4</sup> See doc. CPT/Inf (2012) 4, paragraph 11 (i).

### 3. Safeguards against ill-treatment

17. The findings of the 2014 visit indicate that there had been an improvement in the practical operation of fundamental safeguards against ill-treatment of persons deprived of their liberty by the police, namely the rights of access to a lawyer and to a doctor and the right to notify one's detention to a third party and to be informed of these rights. However, more remains to be done.

18. As regards the right of access to a lawyer, a number of persons interviewed by the delegation who had recently been in police custody confirmed that they were in a position to contact a lawyer from the beginning of police custody.

That said, many allegations were still received that persons were denied the right of access to a lawyer during the initial 24 hours of deprivation of liberty by the police<sup>5</sup> and that they first saw a lawyer when they appeared before a judge. Moreover, several persons claimed that they had not been given the opportunity to consult with their lawyer, either in private or at all, prior to the court hearing.

**The CPT recommends that the national authorities continue their efforts to ensure that the right of access to a lawyer for all persons deprived of their liberty by law enforcement officials is rendered fully effective in practice, as from the very outset of their deprivation of liberty.**

19. The arrangements concerning the provision of free legal aid varied in the various police establishments visited. In several of them (e.g. at Kičevo, Kumanovo and Struga police stations), a list of *ex officio* lawyers was available; by contrast, no such list was available at Ohrid Police Station and the police officers asserted that an *ex officio* lawyer may only be appointed by a court.

The CPT also notes in this respect the comment made by the national authorities in their response to the preliminary observations made by the delegation at the end of the 2014 visit<sup>6</sup> that, in brief, many persons in police custody do not wish to consult a lawyer due to their inability to pay for legal services.

The CPT considers that the exercise of the right of access to a lawyer can only be considered to be an effective safeguard against ill-treatment if persons in police custody who are not in a position to pay for a lawyer benefit from a fully-fledged system of legal aid. If this is not the case, the right of access to a lawyer will remain, in many cases, purely theoretical. In the CPT's experience, it is during the period immediately following the deprivation of liberty that the risk of intimidation and ill-treatment is at its greatest. Consequently, the possibility for persons taken into police custody to have access to a lawyer during that period is a fundamental safeguard against ill-treatment.

**The CPT recommends that that a fully-fledged and properly funded system of legal aid be developed for persons in police custody who are not in a position to pay for a lawyer. This system should be applicable as from the very outset of police custody.**

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<sup>5</sup> In several cases, police officers apparently tried to persuade detained persons that they did not need a lawyer or that the presence of a lawyer would not be in their interest.

<sup>6</sup> A letter of 5 January 2015.

20. The information gathered during the visit suggests that individuals requiring medical assistance during the time of police custody were promptly granted access to a doctor. A few persons also confirmed that they had been given the opportunity to contact a doctor of their own choice.

That said, several complaints were heard that access to a doctor was not granted by police officers if they considered that the detainee concerned did not require medical assistance. This state of affairs is not in line with the information provided by the national authorities in their response to the 2010 visit report<sup>7</sup> that “police officers are obliged to enable the exercise of the right to medical assistance, which is a priority right and is to be ensured before undertaking any other activities”; the “right to medical assistance” contained in Section 34 of the 2006 Law on the Police thus appears not to be fully effective in practice.

Moreover, it transpired from the interviews with persons who had recently been in police custody that police officers were present during all medical examinations of police detainees.

The CPT must stress that the presence of police staff during medical examinations of detained persons could discourage a detained person who has been ill-treated from saying so and, more generally, is detrimental to the establishment of a proper doctor-patient relationship; alternative solutions can and should be found to reconcile legitimate security requirements with the principle of medical confidentiality.

**The CPT calls upon the national authorities to supplement the general legal provision of Section 34 of the 2006 Law on the Police with specific instructions on the right of access to a doctor, stipulating inter alia that:**

- **a doctor must be called or a person taken to a medical facility without delay if a detained person requests a medical examination; it is not for police officers, nor for any other authority, to filter such requests;**
- **a person taken into police custody has the right to be examined, if he or she so wishes, by a doctor of his or her own choice, in addition to any medical examination carried out by a doctor called by the police authorities** (it being understood that an examination by a doctor of the detained person’s own choice may be carried out at his/her own expense); if it is considered necessary in the interests of the investigation, the doctor of a detained person’s choice could be accompanied by a medical officer appointed by the police;
- **all medical examinations of persons in police custody, whether carried out on police premises or in a health care facility, are to take place out of the hearing and - unless the doctor concerned expressly requests otherwise in a given case - out of the sight of police officers;**
- **the results of every examination, as well as any relevant statements by the person in custody and the doctor’s conclusions, should be recorded in writing by the doctor and made available to the detained person and upon request to his or her lawyer.**

<sup>7</sup>

See doc. CPT/Inf (2012) 5, page 11.

21. Section 34 of the 2006 Law on the Police guarantees to persons deprived of their liberty by the police the right to inform a member of his/her family or another close person about their situation. However, the information gathered during the 2014 visit suggests that this provision is not fully implemented in practice. More particularly, several allegations were received that persons in police custody were denied this right until the moment they were brought before a judge.

**The CPT recommends that the national authorities take the necessary steps to ensure that all persons deprived of their liberty by the police, for whatever reason, are granted the right to notify a close relative or third party of their choice about their situation as from the very outset of their deprivation of liberty (that is, from the moment when they are obliged to remain with the police).** The exercise of this right could be made subject to certain exceptions designed to protect the legitimate interests of the police investigation, provided those exceptions are clearly circumscribed in law and made subject to appropriate safeguards (e.g. any delay in notification of custody to be strictly limited in time, to be recorded in writing with the specific reasons therefor and to require the approval of a senior police officer unconnected with the case at hand or a public prosecutor).

22. It is positive that comprehensive information sheets which contained information on rights of persons detained by the police, including the rights of access to a lawyer and a doctor and the right to notify a third person of one's detention, were available in nine languages in all the police establishments visited.

However, as was the case at the time of the 2010 visit, several complaints were received from persons who had recently been in police custody that they had not been informed without delay of all their rights.

In the CPT's view, all persons detained by the police, for whatever reason, should be fully informed of their fundamental rights as from the very outset of their deprivation of liberty (that is, from the moment when they are obliged to remain with the police). This should be ensured by provision of clear verbal information at the very outset, to be supplemented at the earliest opportunity (that is, immediately upon their arrival at police premises) by provision of a written form setting out their rights in a straightforward manner.

**The CPT recommends that the national authorities take the necessary steps to ensure that these requirements are fully respected in practice.**

#### 4. Conditions of detention

23. In the course of the 2014 visit, the CPT's delegation visited nine police establishments (see paragraph 3).<sup>8</sup> In most of them, material conditions were sub-standard and the detention facilities displayed a number of serious shortcomings.

The two single-occupancy basement cells at *Kičevo* and two single-occupancy cells at *Ohrid*<sup>9</sup> Police Stations had no access to any light (either natural or artificial) and possessed no heating.

The two small basement cells at *Kriva Palanka* Police Station (measuring some 4m<sup>2</sup> and 5m<sup>2</sup>) were humid and dilapidated, had no access to light (either natural or artificial) or any ventilation and were not equipped with heating devices. They were unfit for human accommodation and, consequently, detained persons were as a rule<sup>10</sup> held overnight in offices or in a fenced-off space on the ground floor corridor, measuring some 3.5m<sup>2</sup> and equipped with only a chair and a blanket, in full view of any person entering the police station.

It should be noted in this respect that since 2011, the national Ombudsman had repeatedly recommended that, *inter alia*, the basement area should not be used for detention and that other premises should be found and suitably readapted for that purpose. These recommendations remained unimplemented at the time of the CPT's visit.

The detention area at *Kumanovo* Police Station was located in the basement and consisted of two triple-occupancy cells of 10m<sup>2</sup> and three smaller cells (measuring some 7m<sup>2</sup>), each equipped with two beds. Apart from being too small for the intended occupancy, the cells possessed no heating and access to natural light was blocked by metal shutters installed on the windows. The sanitary facilities were in a poor state of hygiene, unventilated and malodorous.

At *Veles* Police Station, the four operational basement cells were all clean but three of them were very small (a mere 4.5m<sup>2</sup>); as noted in the report on the 2010 visit,<sup>11</sup> these cells should not be used for overnight detention; yet, the information gathered during the 2014 visit indicated that they occasionally accommodated detained persons overnight.

At *Prilep* Police Station, material conditions in the three single-occupancy cells (6.5m<sup>2</sup>), located on the ground floor and renovated three years prior to the visit, could be regarded as adequate but the cells were poorly ventilated, the sanitary facilities in the detention area were in a poor state of repair and hygiene and there was apparently no stock of bedding that could be provided to persons detained overnight.

The three double-occupancy basement cells at *Bitola* Police Station possessed no means of heating.

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<sup>8</sup> It should be noted that at *Struga* Police Station, the detention area had been taken out of use.

<sup>9</sup> The two cells were located in the inner courtyard of the police station.

<sup>10</sup> See, however, paragraph 12 (ii).

<sup>11</sup> See doc. CPT/Inf (2012) 4, paragraph 22.

On a more positive note, the four new single-occupancy cells (6m<sup>2</sup> each) at *Gazi Baba* Police Station in Skopje, located on the ground floor, provided material conditions of a good standard. The cells were clean and in a good state of repair and were each equipped with a bed with clean bedding, a call bell and floor heating. Artificial lighting was adequate and the cells had some access to natural light. Sanitary facilities located in the detention area were adequate.

24. At the end of the 2014 visit, in response to the most serious deficiencies identified above, the CPT's delegation made an immediate observation under Article 8, paragraph 5, of the Convention and requested that the national authorities take the detention cells at Kičevo and Ohrid police stations out of use until they were provided with access to light and appropriate heating and ventilation. Further, the delegation requested that no person be detained overnight at Kriva Palanka Police Station until it was equipped with a suitable detention facility.

By letter of 5 January 2015, the national authorities acknowledged the urgent need to reconstruct the detention facilities in the above-mentioned police stations and informed the CPT that in November 2014, the Sector of General Affairs of the Ministry of the Interior had been given the task to make urgent efforts to remedy the identified shortcomings.

**The CPT would like to be informed of the concrete steps taken by the national authorities in this respect.**

25. The CPT considers that all police cells should be clean, of a reasonable size for the number of persons they are used to accommodate<sup>12</sup> and have adequate lighting (i.e. sufficient to read by, sleeping periods excluded) and ventilation; preferably, cells should enjoy natural light. When the need arises, police holding facilities should be adequately heated. Further, all cells used for overnight detention should be equipped with a means of rest suitable for such stays (e.g. a bed or a sleeping platform) and persons obliged to stay overnight in custody should be provided with a clean mattress and clean bedding. Corridors/offices should not be used as *ad hoc* detention facilities; detained persons should be accommodated in rooms/cells designed specifically for that purpose, offering appropriate security conditions.

Persons in police custody should be allowed to comply with the needs of nature when necessary, in clean and decent conditions, and be offered adequate washing facilities. Whenever persons are held for 24 hours or more, they should be provided with appropriate personal hygiene items and be offered outdoor exercise every day.

**The CPT recommends that the national authorities take the necessary steps to remedy the shortcomings identified in paragraph 23, duly taking into consideration the above-mentioned requirements. These requirements should also be taken into account whenever police establishments are refurbished or new establishments built.**

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<sup>12</sup> The Committee considers that it would be desirable for single-occupancy police custody cells used as overnight accommodation to measure 7 m<sup>2</sup>. Multi-occupancy cells should provide at least 4 m<sup>2</sup> per person.



More particularly, **the Committee recommends that:**

- **detention cells at Kičevo and Ohrid Police Stations be taken out of use until they are provided with access to light and appropriate heating and ventilation;**
- **no person be detained overnight at Kriva Palanka Police Station until it is equipped with a suitable detention facility;**
- **the three small detention cells (4.5m<sup>2</sup>) at Veles Police Station not be used for overnight detention of persons deprived of their liberty by the police.**

26. As regards the provision of food to persons in police custody, the delegation could not obtain a clear picture of the existing arrangements. In some police establishments (e.g. at Gazi Baba, Kičevo and Prilep), police officers stated that a small budget for food existed (although they were usually not able to provide further details) or that they would themselves buy food for the detainees.

However, several complaints were heard from persons who had recently been in police custody that, in reality, unless food was provided by their families, they would receive none while in police custody (in some cases, for almost 24 hours).

In the CPT's view, persons in police custody should have ready access to drinking water and be given food at appropriate times, including at least one full meal (i.e. something more substantial than a sandwich) every day.

**The CPT recommends that arrangements be made to ensure that all persons detained in police stations are offered food and water at appropriate times.**

## **B. Prison establishments**

### **1. Preliminary remarks**

#### **a. reform of the prison system**

27. In its previous reports,<sup>13</sup> the CPT has pointed to a number of serious concerns in the prisons visited which had remained unaddressed for a long time and required urgent action, notably: ill-treatment of inmates by prison officers, inter-prisoner violence, deplorable material conditions, the absence of any meaningful regime, the lack of managerial capacity and alleged widespread corruption among staff, inadequate provision of health care and the lack of any external supervision.

At the beginning of the 2014 visit, the national authorities updated the CPT's delegation on the progress achieved in the context of the strategic reform of the prison system, parts of which were funded by a loan from the Council of Europe Development Bank and/or funds provided by the EU under several IPA instruments.<sup>14</sup> In particular, a probation strategy had been adopted by the government in 2013; a comprehensive strategy for prisons, which would address issues such as management of the prison system, human rights, provision of health care and external supervision of the prison system, and a strategy for the training of prison staff were expected to be adopted by the government in December 2014. Within the framework of the latter, trainers from among the current prison staff were supposed to be chosen in March/April 2015. The provision of health care in prison had been formally transferred to the Ministry of Health, yet this change was still to be implemented in practice.

As regards the (re-)construction of prison establishments, the new Kumanovo Prison had entered into service in autumn 2013 and at Idrizovo Prison, the construction of a new staff training centre was almost complete and the construction of a new open section had started.

Amendments to the Law on Execution of Sanctions, scheduled to come into force in February 2015, would grant the status of "public servant" to prison officers and that of "civil servant" to other prison staff (see, however, paragraph 41).

28. The CPT takes due note of these recent developments, as well as the plans for the future. Nevertheless, the Committee is deeply concerned to note that no fundamental improvements were observed by its delegation in the establishments visited during the 2014 visit compared with the situation found at the time of the 2010 and 2011 visits. It thus remains the case that a considerable number of the Committee's long-standing and repeated recommendations have still not been implemented. On the contrary, in many respects, the situation in the establishments visited has further deteriorated since the last visit in 2011.

**The CPT urges the national authorities to step up their efforts to translate concepts, plans and strategies into concrete and decisive action. Further, the Committee would like to be kept fully informed, on a quarterly basis, of the progress achieved in the strategic reform of the prison system.**

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<sup>13</sup> See, e.g., the visit reports on the 2010 and 2011 visits (CPT/Inf (2012) 4 and CPT/Inf (2012) 38, respectively).

<sup>14</sup> IPA – EU Instrument for Pre-Accession.

b. prison establishments visited

29. In the course of the 2014 visit, the delegation carried out follow-up visits to Idrizovo, Skopje and Tetovo Prisons, with the aim of assessing progress made since the 2011 visit. It also visited Ohrid Prison, previously visited in 2002, and the newly-opened Kumanovo Prison.

At the time of the visit, the country's overall prison population stood at 407 remand and 2778 sentenced prisoners, for an official capacity of 452 and 2036 places, respectively.

30. *Idrizovo Prison*, the biggest prison establishment in the country, was accommodating some 1600 sentenced adult prisoners (including 83 women), for an official capacity of 900 places.<sup>15</sup> Of the male prisoners, 33 were sentenced to life imprisonment.

*Kumanovo Prison*, located some 25 km from Kumanovo outside the village of Ksanje, is a newly-constructed establishment which had gradually been receiving prisoners since November 2013. At the time of the visit, it was holding 38 male remand prisoners (including one juvenile) and 180 sentenced male adults, for an official capacity of 50 and 180 places, respectively.<sup>16</sup>

*Ohrid Prison*, located in the centre of Ohrid, consisted of two separate sections: a section for remand prisoners which was holding ten adult male remand prisoners for an official capacity of 18, and a section for sentenced prisoners intended for holding individuals aged 16 to 23 who had committed a crime between the age of 16 and 18. With an official capacity of 20 places, this section was accommodating one juvenile and nine young adults at the time of the visit.

*Skopje Prison*, located at Šutka in one of the northern neighbourhoods of Skopje, has the largest remand section in the country with a capacity of 310 places. At the time of the visit, it was holding 313 remand prisoners, including 12 adult women and four male juveniles. The section for sentenced prisoners was holding 155 sentenced adults, for a capacity of 128.

*Tetovo Prison*, located in the centre of Tetovo, was holding 18 remand and 77 sentenced adult male prisoners, for an official capacity of 70 places.<sup>17</sup>

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<sup>15</sup> It should be noted that the establishment's open unit with an official capacity of additional 150 places had been closed shortly before the visit due to reconstruction.

<sup>16</sup> The institution also comprised an open section at Kriva Palanka which was holding 20 sentenced prisoners for a capacity of 30. This section was not visited by the CPT's delegation.

<sup>17</sup> The delegation was informed, however, that the official capacity was a theoretical figure which varied and in principle depended on the number of beds available in the establishment at a given time.

## 2. Ill-treatment

31. At *Tetovo, Kumanovo and Ohrid Prisons*, the delegation received no allegations of physical ill-treatment of inmates by prison staff. It did receive a few allegations at the remand section of *Skopje Prison*; the ill-treatment was said to occur in reaction to instances of disobedient behaviour by inmates and took the form of slaps, punches and kicks to various parts of the body.

32. By contrast, at *Idrizovo Prison*, the delegation received a great number of consistent allegations of deliberate physical ill-treatment of prisoners by custodial staff. The alleged ill-treatment consisted mainly of slaps, punches, kicks and blows with a baton to various parts of the body and once again apparently occurred in the control room on the ground floor of the main closed accommodation building and in the yards and dormitories. Physical violence was said to be used by prison staff as a tool to impose discipline, as an unofficial punishment for possession of illicit items such as mobile phones and following instances of inter-prisoner fights, or as a reaction to requests and complaints made by the prisoners concerned.

Several of the prisoners interviewed also stated that during frequent cell searches, prison staff behaved roughly and often destroyed inmates' property. A few allegations were also received of racist remarks vis-à-vis Roma prisoners.

In conclusion, the findings of the 2014 visit indicate that physical ill-treatment of prisoners by staff remains a serious problem at Idrizovo Prison. This state of affairs is of grave concern to the Committee.

**The CPT reiterates its recommendation to the national authorities that a clear message be delivered to all prison staff at Idrizovo Prison that ill-treatment and verbal abuse of prisoners are not acceptable and will be the subject of appropriate sanctions. More generally, authorities should deliver, through a formal statement at the highest political level, the clear message that there must be "zero tolerance" of torture and other forms of ill-treatment. Prison staff should be regularly reminded of these basic principles by the management of the prison.**

33. As noted in the past, the credibility of the prohibition of torture and other forms of ill-treatment is undermined each time officials responsible for such offences are not held to account for their actions. For this reason it is essential that whenever there are grounds to believe that an inmate may have been ill-treated either within the prison or by law enforcement officials prior to being remanded in prison, the prison authorities should bring this matter to the attention of the relevant prosecutorial authorities. In this respect, a fundamental safeguard against ill-treatment and impunity is the requirement that a thorough medical examination be conducted on prisoners following a violent incident or use of force within an establishment, as well as on all newly-admitted inmates (reference is made to paragraph 78).

**The CPT reiterates its recommendation that the national authorities put in place a comprehensive policy for the identification and investigation of allegations of ill-treatment. In this context, where the results of a medical examination suggest that a prisoner has suffered ill-treatment, there should be an obligation on doctors to automatically notify the prosecutor's office, regardless of the wishes of the person concerned; any statement made by the prisoner concerned should also be transmitted.**

34. In several previous visit reports,<sup>18</sup> the CPT expressed its grave concern about the lack of care provided to prisoners who are vulnerable due to their mental condition, the totally unacceptable use of inappropriate means of restraint applied for medical reasons and the lack of safeguards accompanying their application. In response to these concerns, the authorities had assured the Committee that steps had been taken to put in place proper procedures.

However, during the 2014 visit, the delegation was again confronted with a recent case of a drug-addicted prisoner suffering from a mental disorder who, after having committed an act of self-harm, had been transferred to a small unoccupied single-occupancy cell (measuring 5.6m<sup>2</sup>) where he had been hand- and ankle-cuffed to a bed for a period of some six days. The hand-cuffs and ankle-cuffs had only been occasionally removed to let him use the toilet. Another prisoner had been placed in the cell to watch over and care for him (e.g. to feed him and to help him urinate in a plastic bottle). This prisoner had slept on a mattress placed on the floor during the entire period.

**As the CPT has repeatedly stressed in the past, such an approach is totally unacceptable and, in the CPT's view, could be considered as inhuman and degrading treatment.**

**The CPT again calls upon the national authorities to issue clear guidelines to all prisons to ensure appropriate mental-health assessment and care for persons at risk of self-harm or suicide. Further, proper instructions on the appropriate use of means of mechanical restraint must be adopted.**

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<sup>18</sup> See the reports on the 2006, 2007 and 2008 visit to the country (doc. CPT/Inf (2008) 5, paragraphs 47-51, CPT/Inf (2008) 22, paragraphs 27-29, and CPT/Inf (2008) 31, paragraph 16, respectively).

35. The problem of inter-prisoner violence remains worrying at Idrizovo Prison; the delegation's findings indicate that newly-arrived prisoners sentenced for sexual offences were systematically ill-treated by other inmates as an initiation ritual. The ill-treatment took place in particular in the admission unit and consisted of punches and blows with hard objects (such as brooms) to the torso and was repeatedly inflicted by groups of inmates. No measures were taken by the prison staff to protect these prisoners; staff either deliberately ignored the situation or their number was insufficient to control it.

Further, some prisoners claimed that they had been beaten by other inmates due to their inability to pay off debts incurred while in prison.

The CPT wishes to emphasise that the duty of care which is owed by the prison authorities to prisoners in their charge includes the responsibility to protect them from other prisoners who might wish to cause them harm. The prison authorities must act in a proactive manner to prevent violence by inmates against other inmates. The lack of an appropriate reaction by the prison administration can foster a climate in which inmates minded to ill-treat other inmates can quickly come to believe - with very good reason - that they can do so with impunity. The capacity to intervene will of course depend *inter alia* on an adequate staff/prisoner ratio (see also paragraph 36).

**The CPT calls upon the national authorities to devise a strategy to combat inter-prisoner violence at Idrizovo Prison; part of this strategy will have to include investing far more resources in recruiting additional staff and promoting their professionalism.**

In addition, **in the context of the strategic prison reform, care should be taken to ensure that the prison system has the capacity to accommodate separately potentially incompatible categories of prisoners.**

### **3. Staffing**

36. At *Idrizovo Prison*, despite a further increase in the prison population by 300 since the 2011 visit, the already insufficient staffing complement of prison officers noted in 2011 had only been modestly increased by 20 officers. Hence, at the time of the 2014 visit, the establishment employed 218 prison officers (for a population of 1600 inmates) who worked in 12-hour shifts. The delegation again noted that the number of prison officers on duty at any given time in each of the units was woefully low. For example, a mere three staff members were on duty on one floor of the main accommodation building, which comprised three units holding 265 prisoners.

The CPT wishes to emphasise in this respect that a number of problems highlighted in the present report, in particular with regard to ill-treatment, inter-prisoner violence and a lack of activities offered to prisoners, are intrinsically linked to the insufficient numbers of prison staff and the lack of training and support provided to them.

37. An improvement in the staffing situation was noted at *Skopje Prison* where the complement of prison officers had been strengthened by 17 posts in 2013 and stood at 110 at the time of the visit (for a population of 468 inmates). As was the case during the 2011 visit, officers worked 12-hour shifts, each shift consisting of 17 custodial staff. Moreover, between 9 a.m. and 5 p.m. every working day, there were now 17 additional prison officers on duty and a further seven officers in each day shift were assigned to escort duties during weekdays.

*Kumanovo Prison* employed 49 prison officers (for a population of 218) who worked 12-hour shifts composed of either 14 officers (day shift on working days) or 10 officers (night shifts and weekends).

In sum, the staffing levels described above and the number of prison officers present in the establishments at any given time can hardly be regarded as sufficient for the number of prisoners held therein at the time of the visit.

38. On a more positive note, the staffing levels could be regarded as appropriate at *Ohrid Prison* where the number of prison officers stood at 24 (for a population of 20 inmates), each 12-hour shift consisting of four or five officers. At *Tetovo Prison* (95 inmates at the time of the visit), the complement of prison officers stood at 23, with four to six officers being present in the establishment at any given time; these staffing levels could be regarded as adequate for the categories of prisoner being held in the establishment. Indeed, the delegation noted that staff-inmate relations were relatively positive and relaxed in those two establishments.

39. The CPT has repeatedly underlined in the past that the climate in a prison is largely dependent on the quality and resources of its personnel. Ensuring a positive climate requires a professional team of staff, who must be present in adequate numbers at any given time in detention areas and in facilities used by prisoners for activities. An overall low staff complement which diminishes the possibilities of direct contact with prisoners will certainly impede the development of positive relations; more generally, it will hinder any efforts to maintain effective control and will generate an insecure environment for both staff and prisoners.

Where staff complements are inadequate, there is a tendency to resort to significant amounts of overtime in order to maintain a basic level of security in an establishment. This state of affairs can easily result in high levels of stress in staff and burnout, a situation which is likely to exacerbate the tension inherent in any prison environment. Furthermore, low staffing levels make it nearly impossible to provide an acceptable regime for prisoners.

In the light of these considerations, **the CPT recommends that prison officer levels at Idrizovo, Kumanovo and Skopje Prisons be reviewed to ensure that staff are in a position to maintain effective control in the establishments, to guarantee a secure environment for themselves and prisoners alike and to provide a regime of activities for prisoners (see paragraphs 63-66).**

40. In the previous visit reports,<sup>19</sup> the CPT commented on the low numbers of educators, the unclear definition of their role and lack of engagement with prisoners at Idrizovo Prison. The findings of the 2014 visit indicate that efforts have been made to improve the situation. Five additional educators were recruited by the prison in 2014 and a new obligation was imposed upon educators by the management to interview ten inmates a day and report back to the governor. Individual files drawn up by educators on prisoners which were examined by the delegation were thoroughly constructed and contained a full picture of the prisoner's history and family, a detailed analysis of the offence committed and an analysis of the criminogenic factors.

That said, it is regrettable that there was no follow-up to the analyses contained in the individual files. Moreover, despite the modest increase, the overall number of 29 educators working in the establishment remains largely insufficient for a prison population of 1600 inmates and, despite the specific recommendation repeatedly made in the past, only one of the newly-recruited educators was an Albanian speaker and none were Roma.

**The CPT calls upon the national authorities to make further efforts to increase the number of educators at Idrizovo Prison to enable the establishment to effectively address the needs identified by them, and to ensure that a significant proportion of the newly-appointed educators are able to speak Albanian. Further, educators capable of addressing the specific concerns of the Roma inmate population should also be appointed.**

41. The CPT has repeatedly emphasised the importance of ensuring that staff are provided with the necessary support and the appropriate knowledge and skills to carry out their task.

In the course of the 2011 visit, the CPT's delegation was informed by the national authorities that the competence of all prison officers had been assessed during that year and that a comprehensive training package was being prepared. Regrettably, at the time of the 2014 visit, a strategy for the training of prison staff had still not been adopted and, with the exception of a few ad hoc seminars, no training was provided to prison staff (see also paragraph 27).

The CPT must reiterate that prison staff should receive initial and regular in-service training to allow both updated and new skills to be learned. Training should thus be viewed as a permanent process and must be practical and problem-based. Each member of staff should have a minimum number of hours training every year, excluding the mandatory weapons training for those who have to carry firearms.

In this context, the CPT notes the new staff training centre at Idrizovo Prison and the plans to identify suitable trainers and commence prison staff training in 2015 (see paragraph 27). However, given the sparse numbers of staff on shift in each prison, this can only happen when there are enough staff to keep prisons running while others go on training courses.

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<sup>19</sup> See, for example, paragraph 16 of the report on the 2011 visit (CPT/Inf (2012) 38) or paragraph 42 of the 2010 visit report (CPT/Inf (2012) 4).



**The CPT recommends that the national authorities step up their efforts to provide all prison staff with adequate training in the light of the preceding remarks and would like to be informed of the progress achieved in this respect, in particular as regards the adoption of the strategy for the training of prison staff and its practical implementation.**

42. As regards the development of a professional management approach within the prison system, reference is made to the plans summarised in paragraph 27. Regrettably, according to the information received by the CPT's delegation during the visit, these changes do not include granting the status of civil servants to prison governors and their deputies. **The CPT calls upon the national authorities to introduce a professional management career path within the prison system and to ensure that prison directors and senior managers are recruited and given security of employment subject to satisfactory performance and are provided with relevant management training to enable them to fulfil their tasks competently.**

43. The CPT notes the efforts made by the newly-appointed management of *Idrizovo Prison* to fight corruption among staff; as a result, seven staff members have been dismissed in the last three years for trafficking in mobile phones. Nevertheless, during the 2014 visit to that establishment, the delegation was again inundated with complaints about the widespread existence of corruption among prison staff, including the involvement of staff in the traffic of illicit goods, in particular mobile phones and drugs. Everything, it seems, can be bought, including home leave and better accommodation in prison. The CPT wishes to recall that the widespread conviction alone of the existence of a culture of corruption (as well as favouritism) in a place of detention brings in its wake discrimination, violence, insecurity and, ultimately, a total lack of respect for authority.

**The CPT calls upon the national authorities to step up their efforts to combat the phenomena of corruption and favouritism at Idrizovo Prison, through prevention, education and the application of appropriate sanctions. In this context, prison staff should receive the clear message that obtaining or demanding advantages from prisoners is not acceptable; this message should be reiterated in an appropriate form at suitable intervals. Further, measures still need to be urgently taken to improve the screening of all persons entering and leaving the prison.**

#### 4. Conditions of detention

##### a. material conditions

##### i. *Idrizovo Prison*

44. In the report on the 2006 visit and in subsequent visit reports, the CPT severely criticised the living conditions at *Idrizovo Prison*. In the course of the 2014 visit, the CPT's delegation noted that minor improvements had been made in the former admission unit (which now served as the open section) and that the corridor of the "school" building now had artificial lighting and was relatively clean.

However, in most parts of the prison the situation remained totally unacceptable and, once again, in certain wings, the conditions could be described as amounting to inhuman and degrading treatment.

45. This was notably the case in the admission unit, recently relocated to the ground floor of the main building on the premises of a former bakery. The unit consisted of three dormitories, each measuring some 50m<sup>2</sup> and connected via a common space measuring some 70m<sup>2</sup>. On the first day of the visit, the unit was holding 53 inmates in two dormitories; the third dormitory where the material conditions were the worst had, according to staff, been taken out of use.

However, when the delegation returned to Idrizovo Prison several days later, the unit was holding 86 inmates and all three dormitories were being used. Indeed, from interviews and an examination of the relevant register it appeared that all three dormitories were regularly used. The unit had accommodated 118 inmates prior to the delegation's visit and following its departure prisoners who had been transferred elsewhere were returned to the unit. The attempts to mislead the CPT's delegation raise a serious issue of cooperation under Article 3 of the Convention establishing the Committee.

The dormitories were in an extremely poor state of repair (dirty crumbling walls and ceiling, holes in the floor, old filthy mattresses, damaged and unsafe electric wiring, broken windowpanes and doors "repaired" with cardboard), infested with vermin and severely overcrowded; at times, prisoners had less than 1.5m<sup>2</sup> of living space each. The number of beds in the dormitories was totally insufficient<sup>20</sup> and prisoners had to sleep in shifts, share beds or even sleep directly on the floor. Apart from the beds, the dormitories were devoid of any equipment (a few benches, chairs and tables were located in the common space) and inmates had no lockable space in which to store their belongings. The sanitary annexe was in an appalling state (filthy, foul-smelling, damaged and leaking) and the three floor-level toilets, two washbasins and single shower were clearly inadequate for the number of inmates in the admission unit.

The situation was further aggravated by the fact that prisoners were confined to the unit for 23 hours a day for periods of up to several months.

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<sup>20</sup> A total of 49 beds (22, 19 and 8 in the three dormitories) for up to 118 inmates.

46. Despite some modest efforts to whitewash and plaster the cracks in the walls of the cells, material conditions in the “school”, the “*ambulanta*” and units 2 and 5 of the closed section remained very poor. The physical premises were in an advanced state of dilapidation, the rooms and dormitories were infested with cockroaches and other insects and the mattresses provided to inmates were old, damaged and filthy. Overcrowding was a feature in almost all parts of the establishment, with prisoners having only between 2 and 3m<sup>2</sup> of living space.<sup>21</sup> In some dormitories of the closed section, inmates slept on mattresses placed on the floor as the number of beds was insufficient. Equipment in the cells and dormitories was usually limited to beds and at best a few chairs and a table and, in the vast majority of cases, prisoners relied on a supply of clean bedding from their families. Further, with winter approaching, the heating either did not work or did not exist in many parts of the prison.

47. Just as in the past, sanitary facilities in the various parts of the prison were in an appalling state of repair and hygiene; the hot water supply was problematic in the “*ambulanta*”. Particular mention should be made of the toilet and shower room in unit 2 of the main building where a burst pipe resulted in sewage from the floor above splashing over the room and flowing down the walls. Apparently, such a state of affairs had existed for more than a year.

48. At the end of the visit, the CPT’s delegation invoked Article 8, paragraph 5, of the Convention and requested the national authorities to take immediate steps to significantly improve the material conditions at Idrizovo Prison and, in particular, to ensure that:

- all inmates are provided with their own bed, a mattress and clean bedding;
- every toilet is fitted with a functional flush and all showers are fixed;
- all accommodation areas of the prison are provided with functional heating devices.

By letter of 5 January 2015, the national authorities informed the Committee that measures had been taken immediately after the CPT’s visit to ensure that every prisoner had his own bed, mattress and clean bedding; 225 mattresses had been supplied and 40 beds were being manufactured. Further, the letter stated that the identified deficiencies had been rectified, that all the toilets were functional and that all parts of the prison now had functional heating.

The CPT trusts that the swift reaction by the national authorities continues to be effective and **recommends that all the premises of the prison are regularly maintained and kept functional. Further, the Committee would like to receive, on a quarterly basis, a breakdown of the number of prisoners held in each unit of Idrizovo Prison and confirmation that all prisoners held at Idrizovo Prison, including in the admission unit, are now provided with their own bed.**

49. Female prisoners were being accommodated in a separate single-storey building of a square shape with a yard in the middle which was equipped with benches and tables. Although the unit provided relatively better material conditions than the rest of the prison, it left much to be desired. The premises were clean, but old and in need of renovation (in particular as regards the sanitary facilities). Insect infestation was also present in this part of the prison.

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<sup>21</sup> For example, in the “*ambulanta*”, a cell measuring 14.5m<sup>2</sup> held seven inmates; in the “geriatric ward”, a cell of 18m<sup>2</sup> held eight inmates and a dormitory of 48m<sup>2</sup> in unit 2 in the main building held 19 inmates.

Cells varied in size (between 10 and 40m<sup>2</sup>) but in principle provided sufficient living space for the number of women accommodated (between one and eight). However, cells in the admission unit which could accommodate up to six persons measured a mere 16m<sup>2</sup>. **The CPT recommends that admission cells in the female unit of Idrizovo Prison only accommodate a maximum of four inmates.**

50. Many complaints were again received at Idrizovo Prison about the quality and quantity of food provided to prisoners and the delegation was able to observe for itself the meagre portions and the inadequacy of the diet. Allegations were again heard that the daily menus shown to the CPT's delegation did not reflect reality.

In addition, newly-admitted prisoners in the admission unit were only provided with food at lunch time on the day following their arrival in the prison, i.e., in a number of cases, after having spent more than 24 hours in the establishment.

**The CPT again calls upon the national authorities:**

- **to ensure that all meals provided to inmates correspond to the minimum legal norms and to the daily menu, and**
- **to put in place an oversight system of the quality and quantity of the food actually provided to prisoners; all discrepancies with the official menu should be fully explained.**

Further, **the Committee recommends that newly-admitted prisoners be provided meals at the usual times, including on the day of their arrival in Idrizovo Prison.**

51. More generally, the CPT's delegation noted that the reconstruction of Idrizovo Prison, carried out in the broader context of the prison system reform, started with the creation of a prison staff training centre (in the premises of a former staff canteen) which was almost finalised at the time of the visit and was followed by the construction of a new open section (on the premises of the former open section which had been demolished). Material conditions in the closed section of the establishment which are by far the worst remain to be addressed at the very end of the reconstruction project.

It should also be noted that the closure of the former open section decreased the overall capacity of the prison and generated further pressure on the other units, thus exacerbating the level of overcrowding in other parts of the prison.

**The CPT invites the national authorities to review the plans for the reconstruction of Idrizovo Prison and the timeframe for their implementation to ensure that the major deficiencies are addressed first. Further, all necessary steps should be taken to minimise the collateral negative effects of the reconstruction works on the inmates.**

ii. *remand section of Skopje Prison*

52. The material conditions in the remand section of Skopje Prison had further deteriorated.

Most parts were in a poor state of repair and hygiene (e.g. damaged floor, dirty crumbling walls, broken tiles, damaged and filthy mattresses, insect infestation). The cells remained poorly lit and inadequately ventilated and there was still no personal lockable space or call bells. In-cell toilets were not fully partitioned up to the ceiling. The situation was further exacerbated by the overcrowding observed in many cells (e.g. 13 inmates in 40m<sup>2</sup> or four persons in 10m<sup>2</sup>) and the fact that inmates remained locked in their cells for 23 hours a day. The walls and ceilings in the shower rooms were crumbling and mould was present; the shower heads were broken. Moreover, many complaints were heard that the hot water supply was problematic and the heating system was out of order at the time of the visit.

In the newer two-storey wing (unit G) the signs of wear and tear, noted already in the 2010 visit after only several months of use, were even more pronounced.<sup>22</sup>

Material conditions in the six multi-occupancy cells of unit A were satisfactory in terms of size (17m<sup>2</sup> for 3 inmates), equipment, lighting and ventilation, but call bells and personal lockers were missing and the in-cell toilets were only semi-partitioned.

53. As was the case in the past, inmates were not provided with the necessary cleaning products to maintain their cells in an appropriate state of hygiene and, in some cells, they had to wash their eating utensils and themselves from a cold-water tap running into the toilet. Moreover, prisoners were still not provided with cutlery for meals and had to share spoons or eat their meals using improvised spoons.

At the end of the 2014 visit, the CPT's delegation made an immediate observation under Article 8, paragraph 5, of the Convention and requested the national authorities to take the necessary steps to ensure that all inmates held in the remand section of Skopje Prison are provided with appropriate cutlery for eating. It also wished to receive confirmation that the heating system at Skopje Prison was operational.

By letter of 5 January 2015, the national authorities informed the Committee that immediately after the CPT's visit, all inmates had been provided with cutlery, that both water boilers were now operational and that the heating functioned in all parts of the prison.

**The CPT calls upon the national authorities to make concerted efforts to reduce the cell occupancy rate in the remand section of Skopje Prison with a view to ensuring that all prisoners accommodated in multi-occupancy cells have at least 4m<sup>2</sup> of living space each. Moreover, the CPT reiterates that it is essential for a rolling programme of maintenance and refurbishment of all cells to be instituted. In addition, all prisoners should be provided with appropriate quantities of hygiene products and have daily access to warm water, and cells should be adequately heated.**

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<sup>22</sup> For a more detailed description, see the report on the 2010 visit (doc. CPT/Inf (2012) 4, paragraph 52).

54. On a more positive note, the CPT welcomes the fact that the new management of the prison has removed the prohibition on prisoners wearing a wristwatch and having access to mirrors.<sup>23</sup>

*iii. Kumanovo Prison*

55. Kumanovo Prison, opened some 10 months prior to the visit, had the potential to provide acceptable material conditions for prisoners. However, at the time of the visit, the prison was already showing signs of wear and tear (leaking toilets, non-functional call bells) in the accommodation areas and experiencing problems with the water supply.

56. The prison contained a remand section (13 cells), an open and semi-open section (26 cells spread over two floors) and a closed section (8 cells located on two floors). In all sections, the cells were generally in a good state of repair, clean and adequately equipped (beds, tables, chairs and personal lockers).

In the remand section, most of the cells provided sufficient living space for the number of inmates they were accommodating (16m<sup>2</sup> for four inmates, 31m<sup>2</sup> for six). However, access to natural light was somewhat limited, the cells being fitted with only two or three narrow windows under the ceiling.

The situation was less satisfactory in the open and semi-open section where the cells provided less than 3m<sup>2</sup> of living space per prisoner (although this state of affairs was to a certain degree mitigated by the fact that prisoners spent most of the day out of their cells).<sup>24</sup> Further, in the closed section, all the cells were suitable for single-occupancy (7m<sup>2</sup>) but were accommodating two persons.

In all sections, in-cell sanitary facilities were not fully partitioned from the rest of the cell, some of the washbasins and toilets were leaking and the call bell system was out of order at the time of the visit.

Moreover, many complaints were heard about the irregular water supply which meant that inmates had to resort to using multiple plastic bottles for washing the floors and flushing the toilet.

**The CPT recommends that the necessary steps be taken to ensure that the above-mentioned deficiencies are remedied. In particular:**

- **a regular water supply should be ensured in all parts of Kumanovo Prison;**
- **occupancy levels in the cells should be reviewed to ensure that prisoners are provided with a minimum of 4m<sup>2</sup> of living space in multi-occupancy cells and cells of 7m<sup>2</sup> should not accommodate more than one person;**
- **all cells should be equipped with functioning call bells;**
- **in-cell sanitary facilities should be fully-partitioned in multi-occupancy cells.**

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<sup>23</sup> However, the mirrors seen by the delegation were made of glass, which may pose a safety and security risk.

<sup>24</sup> In the open and semi-open section, the cells measured between 14 and 17.5m<sup>2</sup> and were each holding six inmates.

57. Special mention must be made of the prison's *admission unit*, located in the basement and consisting of two cells, each measuring some 16m<sup>2</sup>. One of the cells was equipped with eight beds, a toilet and a sink but had no access to natural light whatsoever; the other cell (eight beds) had some access to natural light but was damp and unventilated.

**The CPT recommends that the above-mentioned two admission cells never be used for overnight accommodation of prisoners and that a proper admission unit be created.**

58. On a more positive note, the material conditions in the dining room for the open and semi-open section and in the kitchen were of a very good standard.

*iv. Ohrid Prison*

59. The remand section of Ohrid Prison consisted of six cells, each measuring approximately 10m<sup>2</sup> (excluding the integral sanitary annexe) and accommodating two to four prisoners. The cells were in a satisfactory state of repair and hygiene. However, they had virtually no access to natural light and artificial lighting was rather dim, there were no personal lockers and call bells and some of the in-cell sanitary facilities were not fitted with doors. Moreover, given their size, the cells should not accommodate more than two prisoners.

**The CPT recommends that the above-mentioned deficiencies be remedied. Further, the Committee recommends that the necessary steps be taken to ensure that cells in the remand section of Ohrid Prison do not accommodate more than two prisoners.**

60. The juvenile and young offenders section consisted of several multi-occupancy rooms which were sufficient in size for the number of inmates they were intended to accommodate,<sup>25</sup> were in a good state of repair and hygiene, had good access to natural light and ventilation and were adequately equipped. However, the rooms were not fitted with call bells and during the night, inmates had to shout and bang on the door to attract the attention of the staff (e.g. to access the toilets).

Toilet and shower facilities were located in the corridor and were in an adequate state of repair and hygiene.

**The CPT recommends that all cells and rooms at Ohrid Prison be fitted with call bells.**

<sup>25</sup>

For example, a room measuring some 30m<sup>2</sup> was holding three inmates at the time of the visit.

v. *Tetovo Prison*

61. Material conditions in the remand section of Tetovo Prison, consisting of 12 cells, remain the same as those described in the reports on the 2010 and 2011 visits. At the time of the 2014 visit, smaller cells measuring a mere 5.2m<sup>2</sup> (excluding the in-cell sanitary annexe) were still accommodating two inmates, larger cells of 9.8m<sup>2</sup> held three. The CPT has repeatedly stressed in the past that cells of less than 6m<sup>2</sup> should not, in principle, be used as overnight accommodation for one prisoner, let alone two. Moreover, the cells in the remand section were poorly ventilated and damp, had virtually no access to natural light, artificial lighting was dim and the state of repair and hygiene of in-cell sanitary annexes left something to be desired. Most of the cells were only equipped with beds and filthy mattresses; tables, chairs, shelves and functional call bells were missing. Remand prisoners were still not allowed to wear a wristwatch or have a pen/pencil or a mirror in their cell.

**The CPT once again calls upon the national authorities to take the necessary steps to remedy the deficiencies observed in the remand section of Tetovo Prison. Cells numbered 5 to 12 which were in a better state of repair should be used before cells numbered 1 to 4. Prisoners should also be permitted to wear a wristwatch and be allowed a suitable mirror in their cells.**

62. The 11 cells of the section for sentenced prisoners were in a good state of repair and clean, had good access to natural light, artificial lighting and ventilation and were in principle suitably furnished with beds, tables, televisions, chairs and lockers.

However, conditions in the cells were cramped, with six to eight inmates accommodated in cells of some 13 to 16m<sup>2</sup>, thus providing only 2m<sup>2</sup> of living space per prisoner.

By contrast, the conditions in the two admission cells (one of which could also be used for disciplinary purposes) were very poor. One cell measured 18m<sup>2</sup> and was equipped with a bunk-bed and an additional bed, a shelf, a broken table and a damaged locker. The toilets in both cells were in a deplorable state of repair and hygiene. The other cell, which was equipped with three sets of bunk beds and three lockers, measured a mere 12.5m<sup>2</sup>. In addition, the cells were damp, the walls were dirty and damaged, the mattresses were filthy and there were no call bells.

**The CPT recommends that the admission cells at Tetovo Prison be taken out of use until such time as they are properly renovated.**

**More generally, as regards cell occupancy rates, the norm of at least 4m<sup>2</sup> of living space per prisoner in multi-occupancy cells should be respected in all parts of the prison.**



b. regime

63. No improvement was observed by the delegation as regards the regime offered to prisoners in the various establishments visited during the 2014 visit;<sup>26</sup> an almost total lack of activities for inmates thus remains a characteristic feature of the whole prison system.

64. Despite the Committee's longstanding recommendations, activities for remand prisoners, including juveniles, remain non-existent. Apart from outdoor exercise (offered for a maximum of two hours a day), inmates spent 22 hours a day locked in their cells with nothing to do apart from reading, playing cards and listening to a radio.

**The CPT once again calls upon the national authorities to take the necessary steps to provide educational, cultural and sports activities for remand prisoners with a view to enabling them to spend a reasonable part of the day outside their cells. If necessary, the Ministry of Justice should seek to initiate the necessary amendments to the relevant legislation with a view to ensuring that a regime of purposeful activities can be provided to all inmates held on remand.**

65. As regards more particularly access to outdoor exercise at Tetovo Prison, the information gathered during the visit indicates that the time spent by inmates in taking a shower was deducted from their outdoor exercise entitlement for the given day. There is no justification for such an arrangement and **the CPT recommends that it be abolished forthwith.**

66. Sentenced prisoners met in the various establishments visited benefited from an open-door regime and could associate freely within their units. Most of the prisoners held under open and semi-open regimes had free access to outdoor courtyards for most of the day.<sup>27</sup>

As regards activities, at *Kumanovo Prison*, inmates held under open and semi-open regimes had some access to a fitness room and a library and a few of them worked in the kitchen, dining room or in the grounds. The aspiration to introduce education and workshops had not materialised at the time of the visit.

At *Tetovo Prison*, efforts were made by educators to organise some games and competitions and sentenced prisoners had access to a library, a fitness room and a games room. Some cleaning work was offered to a few prisoners. Despite that, the regime remains very impoverished.

Further, the vast majority of sentenced prisoners at *Idrizovo Prison* continue to be offered no purposeful activities, contrary to the provisions of the 2006 Law on Execution of Sanctions, and continue to spend their days in enforced idleness. A similar situation prevailed at *Kumanovo Prison* where prisoners held under the closed regime were offered no activities at all.

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<sup>26</sup> See, e.g., the relevant parts of the reports on the 2010 and 2011 visits (doc. CPT/Inf (2012) 4, paragraphs 46-51, and CPT/Inf (2012) 38, paragraphs 29 and 32, respectively).

<sup>27</sup> E.g. at Ohrid Prison, for eight hours a day; at Tetovo Prison, between 7 a.m. and 1 p.m. and from 6 p.m. to 9 p.m.

The CPT remains convinced that, until such time as a full and purposeful regime is introduced, imprisonment will only serve to ensure that prisoners at the end of their incarceration are less capable of coping in the outside law-abiding community and are even more dependent on the criminal sub-culture.

**The CPT once again calls upon the national authorities to take the necessary measures to ensure that all sentenced prisoners are offered activities of a purposeful and diverse nature, in order to comply with the basic aims of imprisonment. At Kumanovo Prison, consideration should be given to employing inmates in the fields and for improving the condition of the network of unpaved roads surrounding the prison.**

67. At Idrizovo Prison, no outdoor exercise was apparently offered to inmates on Sundays and at Kumanovo, those held under closed regime were only offered one hour a day. Such a state of affairs does not comply with the 2006 Law on Execution of Sanctions which provides that prisoners should be offered “at least two hours daily outside the closed premises”. **The CPT recommends that all prisoners at Idrizovo and Kumanovo Prisons be offered at least two hours of outdoor exercise every day, in compliance with the 2006 Law on Execution of Sanctions.**

68. As regards more generally Kumanovo Prison, the CPT must point out that the relatively low perimeter security<sup>28</sup> was one of the limiting factors for the provision of a more developed regime to the prisoners held under closed conditions; these inmates were thus confined most of the time within the secure area of their living units. The Committee considers that the current mix in the prison population demands that the undoubtedly very costly highest level of perimeter security be provided even though the majority of convicts have been assessed as suitable for semi-open and open conditions. Dedicating the prison to such prisoners would obviate the need for expensive static security measures and focus the attention of all staff on rehabilitation and preparation for release. It would also allow for the prisoners identified as suitable for closed conditions to be moved to a prison which can provide an appropriate regime of activities. **The CPT would like to receive the comments of the national authorities on this issue.**

69. On a more positive note, sentenced juveniles and young offenders at *Ohrid Prison* were offered 1 ½ hours of education in the morning and additional evening classes (for 1 ½ hours a day) had been initiated by the staff at the request of the inmates. One prisoner had a job outside the prison and several others were offered cleaning within the establishment. For the rest of the day, inmates had access to an outdoor exercise yard equipped with benches, tables, a table-tennis table, basketball hoops and goal posts.

**The CPT recommends that the national authorities pursue their efforts to develop the regime offered to sentenced juveniles and young offenders at Ohrid Prison, in the light of the recommendation made in paragraph 96.**

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At the time of the 2014 visit, the establishment had a single perimeter wall; a double perimeter wall with an alarmed fence inside the secure outer wall, envisaged in the building plans, had not been built.

70. As regards the fact that juveniles and young offenders were held together at Ohrid Prison, reference is made to paragraph 91.

c. juveniles held in prison establishments for adults

71. In the course of the 2014 visit, the delegation met several juveniles, who were held in the remand sections of Kumanovo and Skopje Prisons.

At Skopje, the four juveniles were held in two cells separately from adult prisoners; at Kumanovo, the juvenile shared a cell with two adults. In both establishments, the situation of the juveniles was no better than that of the general prison population; that is to say, poor material conditions and a total lack of activities (including education), other than up to two hours of outdoor exercise a day. As already noted in the 2010 and 2011 visit reports, this state of affairs is totally unacceptable.

The CPT must again emphasise that juveniles who have to be deprived of their liberty should be held in detention centres specifically designed for persons of this age, offering a non-prison-like environment and regimes tailored to their needs and staffed by persons trained in dealing with the young. When, exceptionally, they are held in prisons for adults, juveniles should always be accommodated separately from adults, in a distinct unit. The CPT believes that the risks inherent in juvenile offenders sharing accommodation with adult offenders are such that this should not occur. The Committee acknowledges that there may be arguments in favour of juveniles participating in out-of-cell activities with adults (on the strict condition that there is appropriate supervision by staff).

Moreover, all juveniles deprived of their liberty should be offered a full programme of education, sport, vocational training, recreation and other purposeful and structured activities tailored to their individual needs and intended to fulfil the functions of personal and social development, rehabilitation and preparation for release, in the light of the European Rules for juvenile offenders subject to sanctions or measures. Physical education should constitute an important part of that programme.

**The CPT recommends that the national authorities take the necessary steps to ensure that the above-mentioned precepts are effectively implemented in practice at Kumanovo and Skopje Prisons, and, where applicable, in other prisons throughout the country.**

## 5. Health-care services

72. Health-care staffing levels at *Idrizovo* (three medical doctors and four nurses for a population of 1600 prisoners) and *Skopje Prisons* (two medical doctors and two nurses for a population of some 470 inmates) have not changed since the visits in 2010 and 2011 and hence remain clearly insufficient for the size of the respective prison populations. The material conditions of the medical facilities in each establishment have also not improved since the previous visit.

**The CPT calls upon the national authorities to carry out a detailed needs assessment to determine the precise requirements in terms of health-care staff, facilities and equipment for Idrizovo and Skopje Prisons. In particular, the number of qualified nurses should be substantially increased as soon as possible and the medical facilities upgraded.**

73. The medical team at *Kumanovo Prison* consisted of one general practitioner and one psychiatrist who each worked part-time (50%) for the prison. A dentist attended the establishment once a week. As regards medical facilities, they were generally of a good standard at Kumanovo Prison.

That said, the nursing staff complement (one nurse who was present every weekday between 8.30 a.m. and 4.30 p.m.) was clearly insufficient for a population of some 220 inmates. **The CPT recommends that the nursing team at Kumanovo Prison be reinforced.**

74. In all the establishments visited during the 2014 visit, no health-care staff were present outside regular working hours, i.e. at night and during weekends. In this respect, **the CPT recommends that someone competent to provide first aid always be present on prison premises, preferably someone with a recognised nursing qualification.**

75. As regards medical confidentiality, the delegation found that medical examinations of prisoners in the various establishments visited were routinely carried out in the presence of prison officers. The CPT must reiterate that special security measures may be required during the medical examination of a prisoner when health-care staff perceive a threat in a particular case. However, there can be no justification for prison officers being *systematically* present during such examinations; their presence is detrimental for the establishment of trust and a proper doctor-patient relationship and is usually unnecessary from a security standpoint. Moreover, the presence of security staff may well deter prisoners from providing accounts of the origins of any injuries they have sustained.

**The CPT calls upon the national authorities to ensure that medical examinations of prisoners are conducted out of the hearing and – unless the health-care staff member concerned expressly requests otherwise in a given case – out of the sight of non-medical staff.**

76. It is also a matter of concern that in most of the establishments visited, the distribution of medicines to inmates (including substitution therapy) was performed by prison officers, in particular (but not exclusively) outside the regular working hours of health-care staff. The CPT wishes to underline that the distribution of medicines by untrained individuals may be harmful and, in any event, it is in principle incompatible with the requirements of medical confidentiality and does not contribute to the proper establishment of a doctor-patient relationship.

Moreover, the situation observed during the 2014 visit was not in compliance with the relevant instructions issued by the Director of the Directorate for Execution of Sanctions.<sup>29</sup>

**The CPT recommends that the necessary steps be taken in all prison establishments to ensure that the distribution of medicines (including substitution therapy) is performed solely by health-care staff.**

77. The information gathered during the visit indicates that medical screening of newly-admitted prisoners was carried out on the day of admission, or the day after, at Idrizovo, Skopje and Tetovo Prisons. That said, at Kumanovo and Ohrid Prisons, the initial screening could be delayed for several days.

Moreover, as was the case in the past, it would appear that not all inmates were being *physically* examined upon admission. This state of affairs is in clear contradiction with the relevant Instruction issued by the Director of the Directorate for Execution of Sanctions.<sup>30</sup>

The CPT has emphasised in the past the importance of medical screening of newly-arrived prisoners, particularly in establishments which constitute points of entry to the prison system. Such screening is essential, particularly to prevent the spread of transmissible diseases and suicides, and for recording injuries in good time.

**The CPT reiterates its recommendation that the national authorities remind all prison health-care staff that every newly-arrived prisoner should be properly interviewed and physically examined as soon as possible, and no later than 24 hours after admission by a doctor or by a fully-qualified nurse reporting to a doctor, and that any allegations of ill-treatment and signs of injury should be fully recorded, in accordance with the relevant Instructions.**

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<sup>29</sup> The Instruction on the convicts' access to a physician within the institution, distribution of medications, and medical examination outside the institution provides that "[t]he distribution of medications shall be carried out only by appropriate and trained staff" and that "[t]he medical staff shall distribute the therapy [...]". In addition, the Instruction on the duties and ethics of the medical staff at the institution's Medical Care Department stipulates that daily preparation and distribution of parenteral therapy according to the doctor's prescription should be carried out by health-care staff.

<sup>30</sup> The Instruction on a medical examination upon reception of convicted persons and juveniles in the institution provides that every inmate should be properly physically examined.

78. As regards the recording and reporting of injuries observed by health-care staff upon arrival of an inmate at a prison establishment, the findings of the 2014 visit indicate that the procedures laid down by the Instruction on a medical examination upon reception of convicted persons and juveniles in the institution were still not always followed in practice.<sup>31</sup> More particularly, when injuries indicative of ill-treatment were detected and recorded in prisoners' personal medical files upon admission, prison directors were not always notified. Moreover, the examination of medical records revealed that the description of injuries was superficial, the statements of the inmates concerned as to the origin of the injuries were often absent, as were *a fortiori* the doctor's conclusions as to the consistency of any such statements with injuries recorded.

The CPT must again emphasise that prison health-care services can make a significant contribution to the prevention of ill-treatment of detained persons, through the systematic recording of injuries and, when appropriate, the provision of information to the relevant authorities.

The record drawn up after the medical screening/examination should contain:

- i) an account of statements made by the person which are relevant to the medical examination (including his/her description of his/her 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 health-care professional's observations in the light of i) and ii), indicating the consistency between any allegations made and the objective medical findings.

Recording of the medical examination in cases of traumatic injuries should be made on a special form provided for this purpose, with body charts for marking traumatic injuries that will be kept in the medical file of the prisoner. It would be desirable for photographs to be taken of the injuries, and the photographs should also be placed in the medical file. A special trauma register should be kept in which all types of injury observed should be recorded. In addition, if the prisoner so requests, the doctor should provide him/her with a certificate describing the injuries. The same approach should be followed whenever a prisoner is medically examined following a violent episode in prison.

Whenever injuries are recorded which are consistent with allegations of ill-treatment made by the prisoner concerned (or which, even in the absence of an allegation, are clearly indicative of ill-treatment), there should be an obligation on doctors to automatically notify the relevant prosecuting authorities, regardless of the wishes of the person concerned. Any statement made by the inmate concerned should also be transmitted. These principles should be reflected in a comprehensive policy for the identification and investigation of allegations of ill-treatment (see paragraph 33).

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

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<sup>31</sup> Section 4 of the Instruction provides that whenever there are traces of physical, psychological or sexual violence on a newly-admitted prisoner, the doctor shall make notes to this effect on the form and shall immediately notify in writing the director of the institution. In addition, when the doctor finds on the convicted person or juvenile any injuries caused by the application of physical force or means of coercion or other signs of physical and psychological violence, the doctor shall prepare minutes detailing the injuries and issue a conclusion on the manner and means by which the injuries have been inflicted.

79. No development has been observed by the CPT's delegation as regards the management of the methadone maintenance programme at Idrizovo Prison.<sup>32</sup> It thus remains the case that methadone detoxification was not offered nor was there any psycho-social support to accompany the methadone maintenance.

**The CPT reiterates its recommendation that the national authorities review the management of the methadone maintenance programme at Idrizovo Prison.** Reference is made to the remarks set out in this connection in the report on the 2011 visit to the country.<sup>33</sup>

80. A specific mention must be made of the case of a disabled prisoner who had had both his hands amputated and whom the delegation met in the remand section of Skopje Prison. The prisoner concerned was accommodated in an ordinary cell and it was evident that he could not take care of himself and needed additional support.

At the end of the 2014 visit, the CPT's delegation made an immediate observation under Article 8, paragraph 5, of the Convention and requested that the national authorities take immediate steps to transfer this inmate to an environment where he would receive appropriate care.

By letter of 5 January 2015, the national authorities informed the Committee that the prisoner concerned had been released from prison and his detention on remand had been replaced by house arrest. **The CPT welcomes the swift reaction of the national authorities.**

## **6. Other issues**

### **a. discipline**

81. At *Idrizovo Prison*, particular attention was paid to the situation of prisoners sentenced to a disciplinary sanction of solitary confinement.

82. The disciplinary procedure had not evolved in practice from that observed at the time of the 2011 visit.<sup>34</sup> Prisoners interviewed by the delegation stated that, apart from being offered an opportunity to present their account of the incident in the immediate aftermath of the event, they had no involvement in the disciplinary process and were given no advance notice when they were sentenced to a period of solitary confinement.

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<sup>32</sup> At the time of the 2014 visit, 172 prisoners were on a methadone maintenance programme.

<sup>33</sup> See doc. CPT/Inf (2012) 38, paragraph 44.

<sup>34</sup> See doc. CPT/Inf (2012) 38, paragraph 46.

The CPT reiterates its recommendation that prisoners facing disciplinary charges be formally guaranteed the following additional rights:

- to be informed in writing of the charges against them and to be given sufficient time to prepare their defence;
- to call witnesses on their own behalf and to cross-examine evidence given against them;
- to remain seated during adjudications and to have facilities to take notes;
- to appeal to an independent authority against any sanctions imposed;
- to receive a copy of the disciplinary decision, informing them about the reasons for the decision and the avenues for lodging an appeal, as soon as possible in order to maximise the effectiveness of any appeal.

83. Conditions in the segregation unit had improved since the 2011 visit. Namely, the cells had been recently cleaned and painted and prisoners serving solitary confinement were now offered up to two hours of outdoor exercise a day and were provided with some basic hygiene items. That said, several complaints were received of insufficient heating in the segregation cells; moreover, segregated prisoners were still not allowed to shave. **The CPT recommends that this restriction be rescinded.**

84. Several complaints were also heard that prisoners placed in solitary confinement were given no opportunity to securely store their personal belongings in their cells prior to their transfer which apparently resulted in some possessions being taken by other inmates. **The CPT recommends that prisoners sentenced to a disciplinary sanction of solitary confinement be given an opportunity to securely store their personal belongings.**

85. The CPT's delegation found that prison doctors were still obliged to certify that prisoners were fit to undergo a disciplinary punishment of solitary confinement. **The Committee reiterates its recommendation that this obligation be rescinded;** it is scarcely likely to promote a positive doctor-patient relationship and is not in conformity with the European Prison Rules. Reference is made in this context to paragraph 106.

b. contact with the outside world

86. Efforts have been made at *Idrizovo Prison* to improve the possibilities for prisoners to receive visits; two phone lines for booking visit times now operate, a visitors' waiting room had been created, visits took place every day (including on weekends) and prisoners could in practice receive a maximum of two visits of up to 45 minutes each per month (as compared to the visit entitlement of one visit of one hour per month in 2011). Remand prisoners at *Skopje Prison* were still restricted to two visits per month for a duration of 10-20 minutes. In the *other establishments* visited, similar visiting entitlements were in force (e.g. remand prisoners at Tetovo Prison apparently only received two visits of 30 minutes a month). Such visit entitlements are inadequate. In the CPT's view, all inmates should benefit from a visiting entitlement of at least one hour every week.



At *Skopje Prison*, the conditions under which the visits took place have not improved since the last visit and remain totally inappropriate for promoting meaningful contact.<sup>35</sup> At *Tetovo Prison*, the visit facility for remand prisoners displayed similar shortcomings and a facility for sentenced prisoners was in fact non-existent; convicts were receiving visits in a courtyard of the prison, otherwise used as a parking lot.

Moreover, with the exception of Ohrid Prison, all remand prisoners were only allowed to receive closed visits (i.e. with physical separation) and at Skopje and Kumanovo, children were usually not authorised by judges to visit their parents held on remand. In the CPT's view, "open" visiting arrangements should be the rule and "closed" ones the exception, for all legal categories of prisoners. Any decision to impose closed visits must always be well-founded and reasoned, and based on an individual assessment of the potential risk posed by the prisoner.

**The CPT again calls upon the national authorities to review the arrangements for visits in all prisons with a view to:**

- **increasing the amount of visiting time offered to both remand and sentenced prisoners, preferably to at least one hour every week;**
- **ensuring that prisoners and their families can conduct visits with dignity and respect of privacy (i.e. with appropriate seating arrangements and in an environment which enables communication without the need to raise voices); as far as possible, both remand and sentenced prisoners should be able to receive visits under reasonably open conditions.**

**In addition, the CPT reiterates its recommendation that the ban on children visiting their parent(s) at Kumanovo and Skopje Prisons be reviewed.**

87. *Sentenced prisoners* had access to the telephone in theory, although at Idrizovo Prison most of the phones were out of order. However, in none of the establishments visited were *remand prisoners* allowed to make telephone calls.

The CPT recalls that all prisoners, including remand prisoners, should have access to a telephone. This principle was included in the revised European Prison Rules in 2006.<sup>36</sup> Any decision to prohibit or impose restrictions on a given prisoner's access to a telephone should be based on a substantiated risk of collusion, intimidation or another illegal activity and be for a specified period. If there is a risk of collusion, particular telephone calls can always be monitored.

**The CPT recommends that the national authorities take the necessary steps, including of a legislative nature, to ensure that both remand and sentenced prisoners are granted regular and frequent access to the telephone.**

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<sup>35</sup> See doc. CPT/Inf (2012) 4, paragraph 87.

<sup>36</sup> Recommendation Rec(2006)2 of the Committee of Ministers of the Council of Europe on the European Prison Rules, adopted on 11 January 2006, Rules 24.1 and 99.

c. independent monitoring

88. It remains the case that the State Commission, which is supposed to conduct visits to prison establishments with a view to supervising the application of the 2006 Law on Execution of Sanctions and which would have the right to interview inmates in private, had still not been established at the time of the 2014 visit. More than eight years after the entry into force of the Law, it is high time that its provisions be implemented.

**The CPT recommends that the national authorities take the necessary steps to ensure that the State Commission envisaged by the Law on Execution of Sanctions becomes functional without further delay and operates in a professional, transparent and independent manner.**

89. As regards the monitoring carried out by the Ombudsman's Office, reference is made to paragraph 9.

**C. The situation of juveniles held at the “Tetovo” Educational Correctional Institution**

**1. Preliminary remarks**

90. In the course of the 2014 visit, the CPT’s delegation carried out a follow-up visit to the “Tetovo” Educational Correctional Institution for Juveniles (“the Institution”), located since October 2010 in a two-storey building outside the town of Veles. At the time of the visit, the Institution was accommodating 23 juveniles in the open section and seven in the closed section, for an overall official capacity of 40 places.

At the outset, the CPT must stress that some 13 years after the Institution’s move from Tetovo, the situation in the establishment remains totally unacceptable in many aspects. In particular, ill-treatment by staff and inter-inmate violence appear to be a frequent occurrence, material conditions are deplorable and there are virtually no organised activities for the juveniles. Many of the shortcomings identified during the CPT’s previous visit to the Institution persist; this implies that the national authorities have neglected the welfare of the juveniles in this Institution and have failed to ensure that it lives up to its name as an educational facility preparing and supporting young people to live in the community.

The CPT notes that in the context of the strategic prison reform programme (see paragraph 27), the construction of new purpose-built premises of the Institution in Tetovo commenced in March 2014 and was due to be completed by 2016. However, in view of the major deficiencies in the functioning of the Institution identified in the present report, the Committee considers that it would be preferable to close down the existing premises immediately and transfer the Institution to another temporary location, preferably in the vicinity of Tetovo, which would provide acceptable conditions pending the opening of the new establishment in Tetovo. Keeping the Institution in Veles open during the interim period would require considerable investment by the authorities.

**The CPT calls upon the national authorities to attach a very high priority to ensuring that the Institution is relocated to the new premises in Tetovo as soon as possible and that in the interim, they invest the necessary resources to ensure that the young persons kept in the Institution are held in decent conditions and offered a programme of meaningful activities.**

91. As was the case in the past, inmates held in the Institution were either juveniles between the age of 14 and 18 or young offenders aged 18 to 23 who had committed a criminal offence before reaching the age of 18. The two groups were accommodated together.

The CPT must reiterate that the practice of holding juveniles and young adults together can be beneficial to the young persons involved, but requires careful management to prevent the emergence of negative behaviours such as domination and exploitation, including violence. A case-by-case assessment should be carried out in order to decide whether it is appropriate for a particular inmate, once he or she reaches the age of 18, to continue to be held in a juvenile institution or to be transferred to an adult institution, taking into consideration the remaining term of the sentence, the person's maturity, his or her influence on other juveniles, and other relevant factors. If young adult offenders are to remain in a juvenile institution, they should, as a minimum, be accommodated separately from juveniles.

**The CPT recommends that these precepts be fully implemented at the Institution and that they be duly taken into consideration when designing the new premises and the future functioning of the Institution at Tetovo.**

## **2. Ill-treatment**

92. The inmates interviewed during the visit at the Institution made many allegations of deliberate physical ill-treatment by custodial staff. The ill-treatment consisted mainly of slaps to the face and, occasionally, blows with a baton, and was said to take place as an informal punishment, in particular in reaction to misbehaviour by juveniles and/or after the return of juveniles who had absconded.

Further, several of the inmates indicated that staff of the establishment took no action if allegations of ill-treatment were brought to their attention. For example, in one case, a juvenile allegedly received a baton blow to his eye and was punched in the torso and shoulders by custodial staff several minutes after having been separated from a fight with other inmates. Some seven days after the incident, the head of security took photos of the juvenile's injuries and called him to give an account of the incident; however, no action was subsequently taken. In another case, a juvenile who attempted to escape from the solitary confinement unit was allegedly repeatedly hit with a metal bar and a wooden pole to his back. A second juvenile involved in the incident was allegedly punched in his face, as a result of which his nose bled. The ill-treatment was apparently brought to the attention of an educator but no action was subsequently taken.

93. The CPT wishes to reiterate that the credibility of the prohibition of torture and other forms of ill-treatment is undermined each time officials responsible for such offences are not held to account for their actions. If the emergence of information indicative of ill-treatment is not followed by a prompt and effective response, those minded to ill-treat persons deprived of their liberty will quickly come to believe – and with very good reason – that they can do so with impunity.

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

94. **The CPT recommends that the national authorities deliver a clear message to the management and staff of the Institution that all forms of ill-treatment are not acceptable and will be the subject of severe sanctions.**

**More specifically, custodial staff should be reminded that:**

- **all forms of physical chastisement are unacceptable and must never be used in practice, in particular as regards juveniles (upon whom they may have a particularly harmful effect). Inmates who misbehave should be dealt with only in accordance with the prescribed disciplinary procedures.**
- **no more force than is strictly necessary should be used to control violent and/or recalcitrant prisoners and that once prisoners have been brought under control, there can be no justification for them being struck. In this context, the authorities should ensure that all custodial officers are provided with training in the management of violent incidents, especially in verbal de-escalation to reduce tension and in the use of professional control and restraint techniques on juveniles.**

Further, the Committee recommends that the national authorities put in place a comprehensive policy for the identification and investigation of allegations of ill-treatment. It is essential that whenever there are grounds to believe that an inmate may have been ill-treated either within the Institution or by law enforcement officials prior to being transferred thereto, the Institution authorities bring this matter to the attention of the relevant prosecutorial authorities. Reference is also made in this context to the recommendation made in paragraph 103.

95. As regards inter-inmate violence, the delegation was informed of a recent case of a rape of one juvenile by four fellow inmates. Apparently, in addition to the inquiry carried out by the Ombudsman's Office, criminal charges had been brought against two staff members and the suspects. **The CPT would like to receive updated information on the criminal investigation initiated against the staff and the juvenile suspects and, in due course, information on its outcome.**

Further, it became clear during the visit that the victim was being held in the open section which was connected to the closed section of the Institution where three of the four suspects were being held<sup>37</sup> (see paragraph 97). The victim was thus exposed to the possibility of further violence and intimidation by the suspects.

**The CPT recommends that whenever credible allegations of inter-prisoner violence and/or abuse are made, the victim(s) and the suspect(s) be effectively separated from each other with a view to protecting the victim from further abuse and/or retaliation. This should include, as a minimum, separate accommodation, separate access to showers/toilets and separate outdoor exercise. If the conditions in the given establishment do not permit such arrangements, consideration should be given to transferring the suspects and/or the victim to another suitable facility.**

<sup>37</sup>

The fourth suspect was being held at Šutka Prison at the time of the visit, after having escaped from the Institution and subsequently re-captured.

### 3. Conditions of detention

#### a. regime

96. During the daytime, inmates held at the Institution could associate freely within their respective units and were offered at least one hour of outdoor exercise every day and often more and limited access to a fitness room (e.g., in the closed section, two or three times a month for a session of two hours). Some efforts were being made by the staff to provide improvised basic education to illiterate inmates and a few one-off courses on life skills, reading, writing and drawing were organised for a handful of inmates between 2012 and 2014 with the support of various NGOs.

However, it is a matter of serious concern that juveniles were provided with nothing that remotely resembled a programme of structured activities; on the contrary, they spent virtually all their time in idleness, hanging around in their units with nothing to occupy themselves, except for watching TV, playing table tennis and chatting.

As stressed by the CPT in the past, although a lack of purposeful activity is detrimental for any prisoner, it is especially harmful for juveniles, who have a particular need for physical activity and intellectual stimulation.

**The CPT reiterates its recommendation that the national authorities take the necessary steps to ensure that all juveniles deprived of their liberty are offered a full programme of education, sport, vocational training, recreation and other purposeful and structured activities tailored to their individual needs and intended to fulfil the functions of personal and social development, rehabilitation and preparation for release, in the light of the European Rules for juvenile offenders subject to sanctions or measures. Physical education should constitute an important part of that programme.**

#### b. material conditions

97. The Institution comprised an open and a closed section which were now both located on the first floor of the accommodation building.<sup>38</sup> The ground floor was primarily occupied by staff offices, a kitchen and a dining room for the open section and a surgery.

The *open section* consisted of three larger dormitories, each with a capacity of eight places and measuring some 32 m<sup>2</sup>, and two smaller rooms (16m<sup>2</sup>) which could accommodate two or three inmates. In addition, there was an association room equipped with benches, a table-tennis table and a television, and a fitness room with some basic exercise equipment.

The *closed section*, located at the one end of the first floor and “separated” from the open section by a metal grille, which remained open at all times,<sup>39</sup> consisted of two rooms of some 33 m<sup>2</sup> accommodating two and five inmates respectively.

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<sup>38</sup> At the time of the 2011 visit, the closed section was located on the ground floor.

<sup>39</sup> The separation had to remain open as sanitary facilities used by inmates of both sections were located in the open section.

The accommodation rooms and dormitories were sufficient in size for the number of inmates held and had good access to natural light and ventilation. That said, the dormitories were decrepit, most of them were devoid of any furniture apart from (bunk-)beds and a few lockers and in many of them the lights and wiring were damaged and unsafe. Moreover, at the time of the visit, on the first day of the heating season, the central heating was not functioning and the delegation was informed that an improvised solution would be found and that wood-burning stoves would be installed in the Institution.

The *toilets and showers*, located on the first floor, were in an appalling state of hygiene and malodorous. Only one of the four showers could be regarded as functional (although the showerhead was missing) and the window of the shower room had no glass.

In sum, material conditions at the Institution have deteriorated significantly since 2011 and the accommodation building was virtually falling apart. Consequently, at the end of the visit, the CPT's delegation made an immediate observation under Article 8, paragraph 5, of the Convention, and requested that the national authorities take immediate steps to significantly improve the material conditions at the Institution, and in particular to ensure that:

- the premises are properly heated;
- sanitary facilities are kept clean and function properly;
- dormitories are equipped, in addition to beds, with tables and chairs commensurate with the number of juveniles detained and each juvenile is provided with personal lockable space.

By letter of 5 January 2015, the national authorities informed the Committee that heating was now provided in the Institution by means of electric heaters and wood-burning stoves, that a procurement procedure had been initiated to purchase certain basic furniture (wardrobes, tables, chairs, etc.) and that the preparation of project documentation for launching a public procurement notice for the selection of a contractor to renovate the premises of the Institution was in the final stage. The works were to include renovation of the electricity, water and sewerage installations, complete refurbishment of the toilets, replacement of windows and painting.

The CPT notes the steps taken by the national authorities to address the major deficiencies in material conditions at the Institution. However, reference is made in this context to the recommendation and comments made in paragraph 90. Further, **the Committee would like to receive confirmation that dormitories at the Institution are now equipped, in addition to beds, with tables and chairs commensurate with the number of juveniles detained, that each juvenile is provided with personal lockable space and that all sanitary facilities now function properly.**

98. More generally, the CPT considers that a well-designed juvenile detention centre should provide positive and personalised conditions of detention for young persons, respecting their dignity and privacy. All rooms should be appropriately furnished and provide good access to natural light and adequate ventilation.

Juveniles should normally be accommodated in individual bedrooms; reasons should be provided explaining why it is in the best interests of the juvenile to share sleeping accommodation with another inmate. Juveniles should be consulted before being required to share sleeping accommodation and should be able to state with whom they would wish to be accommodated.

Every effort should be made to avoid placing juveniles in large dormitories as the CPT's experience is that this puts juveniles at a significantly higher risk of violence and exploitation.

**The CPT recommends that these precepts be implemented, as far as possible, at the Institution and that they be duly taken into consideration when designing the new premises and the future functioning of the Institution at Tetovo (see paragraph 90).**

#### **4. Staff**

99. The staff complement consisted of 19 security officers, nine educators and four technical staff present in Veles, as well as 10 administrative staff located in Tetovo. Staff directly engaging with the juveniles in Veles worked 24-hour shifts (followed by 48 hours off duty) and commuted from Tetovo and its vicinity, i.e. the original location of the Institution from which it had been temporarily transferred some 13 years previously and which is 90 minutes away by road. In principle, there were four security officers and three or four educators in each shift. Apparently, no in-service training was provided to the different categories of staff.

As regards the management of the Institution, the director was mainly occupied with administrative work in Tetovo and hardly ever visited the establishment in Veles while his deputy was only present two or three times a week. It is not surprising that there was a clear absence of leadership and management at the Institution in Veles.

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

The management of such centres should be entrusted to persons with advanced leadership skills who have the capacity to respond in an effective manner to the complex and competing demands placed upon them, both by juveniles and by staff.



As regards more particularly the professional backgrounds currently represented among the staff of the Institution, the CPT considers that efforts aimed at reducing the risks of long-term social maladjustment must be based on a multidisciplinary approach, drawing upon the skills of a range of professionals (including teachers, trainers and psychologists), in order to respond to the individual needs of juveniles within a secure educative and socio-therapeutic environment and to offer them a wide range of opportunities to demonstrate personal growth and competence acquisition.

The CPT also considers that the pattern of 24-hour shifts inevitably has a negative effect on professional standards; no one can perform in a satisfactory manner the difficult tasks expected of a staff member of an educational and correctional institution for juveniles for such a length of time. This is particularly true for educators.

In sum, the CPT is concerned that the current state of affairs, i.e. the combination of poor working conditions in the Institution, long shifts, almost purely passive custodial duties and lack of direct managerial supervision and support, coupled with the additional burden of regular commuting, can easily lead to staff burnout, undermine their motivation, increase the risk of staff-inmate tension inherent in any detention facility, preclude the emergence of dynamic security and generate an insecure environment for both staff and juveniles, as well as have a negative influence on the quality and level of the activities provided to them. This situation has endured for 13 years; it should be brought to an end immediately.

**In the light of the preceding remarks, the CPT recommends that the national authorities take the necessary steps to ensure that:**

- **the staffing levels and the range of professional backgrounds among the staff of the Institution are reviewed so that the Institution is able to provide a genuine secure educative and socio-therapeutic environment; reference is made in this context to the recommendation made in paragraph 96;**
- **staff of the Institution receive professional training, both during induction and on an ongoing basis, focused on, *inter alia*, the acquisition of interpersonal communication skills, mental health, psychology, suicide prevention, anti-bullying, cultural awareness, etc.**
- **members of staff in direct contact with juveniles in the Institution are drawn from both sexes;**
- **staff working in the Institution can benefit from proper managerial support and supervision;**
- **the Institution moves away, as soon as possible, from the pattern of staff working 24-hour shifts.**

## 5. Health-care services

100. Somatic care was provided by one medical doctor who worked a 24-hour shift, followed by 72 hours off duty. During his absence, the doctor could be consulted by telephone. There were no nurses employed by the Institution.

The above-mentioned staffing level and attendance of the medical doctor is problematic from several perspectives. For example, medical screening of juveniles on admission, although carried out thoroughly, was often delayed for several days because of the absence of health-care staff. Further, most of the time there was nobody present in the establishment who was qualified to provide first aid. In addition, as noted in paragraph 99, the pattern of 24-hour shifts inevitably has a negative effect on professional standards as no-one can perform in a satisfactory manner for such a length of time.

**The CPT recommends that the national authorities take the necessary steps to ensure that someone competent to provide first aid is always present in the Institution, preferably someone with a recognised nursing qualification. Further, the Committee recommends that all newly-arrived prisoners be given as soon as possible, and no later than 24 hours after their admission, a comprehensive medical examination by a health-care professional. Such screening could also be performed by a fully qualified nurse reporting to a doctor. Moreover, the Institution should move away, as soon as possible, from the pattern of the medical doctor working in 24-hour shifts.**

101. A dentist was contracted by the Institution to provide dental care and the delegation received no complaints in this respect.

102. As regards medical confidentiality, it is positive that custodial staff were as a rule not present during medical examination of the inmates and medical files (which were properly kept) were not accessible to non-medical staff. The quantity and range of medication available were acceptable.

103. The CPT has repeatedly stressed that the health-care service in a given establishment can potentially play an important role in combating the infliction of ill-treatment, both in that establishment and elsewhere (in particular in police establishments), through the systematic recording of any injuries observed on admission or subsequently and, if appropriate, the transmission of information to the relevant authorities.

In this respect, the information gathered during the visit indicates that there was no clear understanding by the doctor at the Institution of his role and the procedures to follow if allegations of ill-treatment were made by inmates.

**The CPT recommends that whenever injuries are recorded which are consistent with allegations of ill-treatment made by the inmate concerned (or which, even in the absence of an allegation, are clearly indicative of ill-treatment), there should be an obligation on doctors to automatically notify the relevant prosecuting authorities, regardless of the wishes of the person concerned. Any statement made by the inmate concerned should also be transmitted. These principles should be reflected in a comprehensive policy for the identification and investigation of allegations of ill-treatment (see paragraph 33).**

Further, a centralised register of injuries should be kept in the establishment. **The CPT recommends that a special trauma register, in which all types of injury observed on inmates would be recorded, be established in the Institution.**

## **6. Contact with the outside world**

104. The CPT wishes to stress that the active promotion of good contact with the outside world can be especially beneficial for juveniles deprived of their liberty, many of whom may have behavioural problems related to emotional deprivation or a lack of social skills.

In this respect, the delegation was informed that juveniles were formally entitled to receive *visits* twice a month; this strict limitation, however, was applied benevolently and visitors were apparently never turned down on these grounds.

Juveniles held in the open section had, in principle, unlimited access to a *telephone* (provided that they could pay for calls) and those held in the closed section could receive phone calls.

**The CPT recommends that the national authorities take the necessary steps to ensure that all juveniles held in the Institution are legally guaranteed and able to benefit in practice from a visiting entitlement of at least one hour every week. Further, all juveniles (whether held in the closed or open section) should be granted regular and frequent access to the telephone.**

In addition, **the CPT invites the national authorities to consider the possibility of allowing indigent juveniles at least one telephone call per month free of charge.**

## **7. Discipline**

105. The examination of the relevant disciplinary register revealed that “solitary confinement” was imposed as a punishment in 59 cases in 2014 up to the date of the visit (the length usually ranging between three to seven days) in 26 of which it had actually been implemented; many of these were linked with abuse of home leave (e.g. late return, absconding). As a rule, two or more juveniles were placed in a disciplinary cell together and benefited from one hour of outdoor exercise a day.

The two disciplinary cells, located on the ground floor and measuring 10 and 15m<sup>2</sup>, were poorly ventilated, humid and dirty and had virtually no access to natural light. Artificial lighting was dim in one cell, the bulb was broken in the other cell. They were only equipped with plank-beds,<sup>40</sup> a semi-partitioned floor-level toilet and a water tap; there was no heating and no call bells.

Such conditions are not fit for holding inmates and at the end of the visit, the CPT’s delegation made an immediate observation under Article 8, paragraph 5, of the Convention, and requested that the disciplinary cells be immediately taken out of use.

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Juveniles placed in the disciplinary cells took their mattresses and bedding from their dormitories.

By letter of 5 January 2015, the national authorities informed the Committee that the use of the disciplinary cells had been forbidden by an Order of the Director of the Directorate for Execution of Sanctions. **The CPT welcomes this development.**

106. The information gathered during the visit indicates that before placement in a disciplinary cell, the inmates concerned were examined by a medical doctor to confirm their fitness for punishment. Thereafter, they were seen by a doctor every three to four days (depending on the presence of the doctor – see paragraph 100).

The Committee wishes to stress that medical practitioners working in correctional institutions for juveniles act as the personal doctors of inmates, and ensuring that there is a positive doctor-patient relationship is a major factor in safeguarding the health and well-being of inmates. Obliging doctors to certify that juveniles 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 removed.

On the other hand, a correctional institution's health-care service should be very attentive to the situation of inmates placed under conditions of *solitary confinement*; every disciplinary placement under such conditions should be immediately brought to the attention of the health-care service. The health-care staff should visit the prisoner immediately after placement and thereafter, on a regular basis, at least once per day, and provide them with prompt medical assistance and treatment as required.

**The CPT recommends that the role of health-care staff in solitary confinement be reviewed at the Institution in the light of the preceding remarks.**

107. On a more general note, the CPT is concerned to note that the maximum length of solitary confinement for juvenile prisoners set out by the Law on Execution of Sanctions is ten days.<sup>41</sup>

The CPT has strong reservations as concerns any form of solitary confinement of juveniles. For this age group, placement in a solitary confinement regime is a measure which can easily compromise their physical and/or mental integrity; consequently, such a sanction should be imposed only in very exceptional circumstances, as a last resort and for the shortest possible time. In the CPT's view, solitary confinement imposed on juveniles as a disciplinary measure should never last for more than three days.

**The CPT recommends that Section 276 of the Law on Execution of Sanctions be amended to reflect the above considerations and that the maximum period of solitary confinement as a disciplinary sanction for juveniles never exceed three days. Further, whenever juveniles are subject to such a sanction, they must be guaranteed socio-educational support and appropriate human contact throughout the duration of the measure.**

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<sup>41</sup> See Section 276 of the 2006 Law on Execution of Sanctions.

## **D. Immigration detention centre**

### **1. Preliminary remarks**

108. “The former Yugoslav Republic of Macedonia” has experienced a steady increase in the number of irregular migrants transiting its territory in recent years along the so-called Western Balkan migratory route. Notably, the number of irregular migrants detected at border crossings or within the country has increased from 272 in 2009 to 1,132 during 2013 and was further growing in the course of 2014 with approximately 1,300 foreign nationals intercepted during the first ten months of the year.

The main provisions of the legal framework governing the deprivation of liberty of foreign nationals under aliens legislation are contained in the 2006 Law on Foreigners and, more particularly, in Section 108 which stipulates that a foreign national may be detained by the Ministry of Internal Affairs for a maximum of 24 hours for illegal entry on the national territory of “the former Yugoslav Republic of Macedonia”. If his/her deportation cannot be enforced during that time limit, a temporary decision on the detention and accommodation at the Reception Centre for Foreigners in Skopje is issued by the same Ministry. The maximum period of detention of a foreign national at the Reception Centre amounts to twelve months.<sup>42</sup> An unaccompanied minor may be detained in a special dedicated unit of the Reception Centre and the competent Social Work Centre must be informed (see also paragraph 121). Further, foreign nationals can also be detained at the Reception Centre if they have been victims of human trafficking pending the issuance of identity documents<sup>43</sup> as well as in the case of a specific violation of the Law on Misdemeanour Offences.<sup>44</sup> The functioning and operation of the Reception Centre are regulated by a dedicated Rulebook on House Rules (Official Gazette 35/2006) issued by the Ministry of the Interior (Rulebook).

109. In the course of its 2014 periodic visit, the CPT’s delegation visited for the first time the Reception Centre for Foreigners in Skopje. Located on the hill overlooking the Skopje Municipality of Gazi Baba, the centre consisted of a two-storey building which was initially conceived as a kindergarten at the time of its construction in 2002. Following its transfer to the Ministry of the Interior, the establishment operated temporarily as an open institution for the reception of asylum seekers and shelter for victims of trafficking. The centre was finally inaugurated as a closed establishment for the detention of irregular immigrants in 2007.

At the time of the CPT’s 2014 visit, the Reception Centre was seriously overcrowded and conditions in which irregular migrants were held could be described as amounting to inhuman and degrading treatment (see paragraphs 113 to 120).

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<sup>42</sup> In accordance with Section 109 of the Law on Foreigners.

<sup>43</sup> In accordance with Section 108 paragraphs 1 and 2 of the Law on Foreigners.

<sup>44</sup> Section 93 of the Law on Misdemeanour Offences states that if the perpetrator of a misdemeanour is a foreigner whose identity cannot be determined, he/she can be detained at the Reception Centre for a period of 30 days which can be extended for an additional 30 days by a court decision.

During the period from November 2013 to July 2014 the number of detainees at the Reception Centre did not exceed 111 foreign nationals. However, at the time of the CPT's 2014 visit<sup>45</sup> the establishment was accommodating 265 foreign nationals (245 male and 20 female) including 29 minors of whom 13 were unaccompanied. The director of the centre informed the CPT's delegation that in principle the capacity of the establishment stood at around 120 places but that this figure was not based on any official calculation or criteria.

**The CPT recommends that the national authorities immediately reduce the number of irregular migrants at the Reception Centre. Further, an official capacity should be set for the establishment based upon the criterion of 4m<sup>2</sup> of living space per person in multi-occupancy rooms. The CPT also recommends that children should not be accommodated at the Reception Centre.**

## **2. Ill-treatment**

110. The CPT's delegation received numerous, consistent and credible allegations of deliberate physical ill-treatment of foreign nationals by security staff. The physical ill-treatment of detained persons mainly consisted of blows with truncheons and wooden sticks to various parts of the body which were allegedly inflicted by custodial staff. It usually took place in the custodial officers' rest room located on the ground floor of the establishment after the foreign national had been removed from the detention unit. The alleged ill-treatment was generally inflicted following requests by detained persons addressed to staff, either to be granted a phone call or to see a medical doctor or in relation to episodes of inter-detainee violence and intimidation (see paragraph 112). For example, in one case a Syrian national who had been recently admitted to the centre alleged that he had been hit with a wooden stick by a security officer on 2 October because of his reiterated requests to see a doctor. Upon examination by the delegation's doctor on 16 October, the detained person bore several elongated "tram-line" marks on the lower part of his back (lumbar region) which were assessed as being compatible with his allegations. At the time of the CPT's visit to the centre the detained person in question had already spent 14 days at the establishment but had not yet undergone a medical screening since his admission.

111. In their response to the CPT delegation's preliminary observations by letter received on 6 January 2015, the national authorities stated that episodes of physical ill-treatment of detained persons by staff could not occur at the Reception Centre as police officers working at the establishment did not carry truncheons. This information is false. The delegation members could observe with their own eyes that custodial officers working at the centre were openly carrying truncheons including inside the detention units (see paragraph 123).

**The CPT recommends that the authorities take rigorous action to counter acts of ill-treatment at the Skopje Reception Centre for Foreigners. All police officers assigned to custodial tasks at the centre should be provided with appropriate training in inter-personal skills and be regularly reminded that any ill-treatment of detainees, including of a verbal nature, will be punished accordingly. Finally, any allegations of ill-treatment of detained persons by staff which come to the knowledge of the authorities should be the object of a thorough investigation.**

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265 foreign nationals were detained during the first day of the CPT's visit and 219 on the second day following the transfer of 46 of them to the open centre for asylum seekers.

112. During the period of time immediately preceding the visit of the CPT's delegation to the Reception Centre there appeared to be frequent episodes of inter-detainee violence in particular in light of the serious rate of overcrowding and the impoverished regime in force at the establishment (see paragraphs 113 to 120). The daily logbook drawn up by security officers showed in fact that during the fortnight preceding its visit, two episodes of violence and intimidation among detained persons had taken place in the male detention unit of the centre. However, it appeared that security staff did not know how to manage such situations. For example, in relation to the two above-mentioned episodes, foreign nationals interviewed by the CPT's delegation stated that custodial staff had reacted violently, allegedly inflicting blows on detained persons using truncheons rather than separating the protagonists.

In the CPT's view, security staff working in direct contact with irregular migrants at immigration detention centres should be trained in verbal de-escalation techniques and mediation skills as well as in manual control and restraint techniques should they need to physically intervene in cases of inter-detainee violence. Only when such an approach is not deemed adequate and there is a general threat to the order of the establishment should recourse be had to more coercive means of force, such as batons and shields; the deployment of such means of force should be regulated by a specific protocol and staff should receive specialised training.

**The CPT recommends that a policy on dealing with inter-detainee violence be developed and that custodial staff serving at the Reception Centre be trained in manual control techniques as well as in negotiation and mediation skills. Further, the Committee recommends that the management and staff of the Reception Centre be instructed to exercise constant vigilance and use all appropriate means at their disposal to prevent and combat inter-detainee violence and intimidation. This should include ongoing monitoring of detained persons' behaviour (including the identification of likely perpetrators and victims), proper reporting of confirmed and suspected cases of inter-detainee intimidation/violence and thorough investigation of all incidents.**

### **3. Conditions of detention**

113. The CPT has long advocated that irregular migrants deprived of their liberty should be accommodated in centres specifically designed for that purpose, offering material conditions and a regime appropriate to the particular legal situation of these migrants and staffed by suitably-qualified personnel. Obviously such centres should provide accommodation which is adequately furnished, clean and in a good state of repair, and which offers sufficient living space for the numbers involved. As regards regime activities they should include outdoor exercise, access to a day room and to radio/television and newspapers/magazines, as well as other appropriate means of recreation (e.g. board games, table tennis, sports). The longer the period for which persons are detained, the more developed should be the activities which are offered to them.

114. The Reception Centre in Skopje consisted of a male and a female detention unit. The 13 unaccompanied minors were all accommodated in the male section while the remaining 16 children were staying with the respective relatives. Three separate rooms/dormitories were used in order to accommodate newly arrived male detainees for a number of days (the so-called "*karantena*").

The whole establishment offered extremely poor conditions of detention in terms of its state of repair and level of hygiene. One particular room in the male detention unit measuring 22 m<sup>2</sup> and lacking access to natural light and ventilation was accommodating three children together with ten adults, most of whom smoked. Basic furniture such as metal closets, chairs and tables, televisions, and electric bulbs, as well as windows and walls, were seriously damaged or dilapidated and had not been repaired for months. The lockable space available to detained persons was limited to one closet for approximately 20 foreign nationals in the male detention unit. Further, cutlery was not systematically provided to detainees.

Following a recent refurbishment, the sanitary facilities in the female/children's unit were found to be in an adequate state of repair. However, the three sanitary facilities of the male detention unit all had broken toilets and shower heads and malfunctioning boilers. In sum, approximately 162 detained persons (including 13 unaccompanied minors) were sharing a total of three showers and four toilets which were properly functioning in the centre's male detention unit.

Article 12, paragraph 2, of the above-mentioned Rulebook on the centre's house rules stipulates that foreign nationals be provided with a cosmetic kit containing personal hygiene items. In practice, some of the detained persons were given a bar of soap upon admission but no cleaning products. The CPT's delegation was able to verify that the stock of personal hygiene items was clearly insufficient. Bedding, consisting mainly of blankets due to the limited stocks of linen, was dirty and not regularly cleaned by the management of the establishment. In sum, the level of hygiene left much to be desired, in particular in the male detention unit due to the lack of cleaning products and the serious overcrowding.

115. The levels of overcrowding were serious in both male and female units and in the separate rooms/dormitories ("*karantena*"). For example, one room measuring 17m<sup>2</sup> was accommodating nine women and four children in the dedicated detention unit. The number of beds, in particular in the male detention units, was limited to 60 for a total of 162 detainees, most of whom were compelled to sleep on mattresses or directly on the floor, often in improvised locations such as stairways and corridors adjacent to the sanitary facilities. Further, in one of the separate dormitories measuring some 50m<sup>2</sup> and equipped with eight beds, the CPT's delegation found 33 Syrian nationals who had spent 20 days confined in those conditions, deprived of any outdoor activity and of a shower and with access to a single dilapidated and blocked toilet.



116. In terms of special accommodation needs, Article 11 of the Rulebook provides that families, unaccompanied minors and victims of trafficking should be accommodated in separate dedicated units at the centre. This was not the case at the time of the visit, when the only accommodation criterion appeared to be the sex of the detainee. As a result, families were separated, unaccompanied minors were accommodated with adults of the same sex (see paragraph 121) and victims of trafficking were mixed with the rest of the detainee population. The delegation was informed that separated family members could in principle meet once a day in the presence of a custodial officer. By letter received on 6 January 2015, the authorities informed the CPT that there were no longer any families present at the centre. The CPT considers that every effort should be made by the authorities to avoid as far as possible resorting to the detention of irregular migrant families in immigration detention centres.

**The CPT recommends that the authorities avoid, as far as possible, detaining irregular migrant families. If, in exceptional circumstances, detention cannot be avoided, families should be accommodated in a dedicated unit of the Reception Centre for Foreigners providing an adequate environment and the period of detention should be limited in time.**

117. As regards outdoor exercise, Article 14 of the Rulebook stipulates a minimum of 30 minutes of access to an exercise yard twice a day for the detained population. However, at the time of the CPT's visit, no specific arrangements were in place at the centre in relation to outdoor exercise of detainees. The vast majority of the detained persons interviewed by the delegation stated that they had never had access to an outdoor facility during their stay (i.e. up to 4 months).

118. Article 13 of the Rulebook provides that detained persons be provided with three meals per day.<sup>46</sup> In practice, food was provided only once a day during weekdays and never during weekends.<sup>47</sup> The food consisted of bread, canned fish, sausages and spreadable cheese and, less frequently, eggs. Children received an extra daily quantity of half a litre of milk. The delegation visited the food storage location at the establishment and was able to confirm that there was no variation to the menu and that the dietary habits of the detainee population, including children, were not taken into account. There were two equipped kitchenettes (one per detention unit) in which detained persons could prepare food that they purchased at their own expense from outside shops through the intermediary of the custodial staff. With the exception of the female detention unit where the 36 detained persons had access to tables and chairs, the consumption of food took place directly on the floor or on the respective beds/mattresses.

119. As regards activities, the Rulebook states in Article 15 that detained persons can watch television, read books and newspapers/magazines and play board games in a dedicated recreational room. This was not the case at the Reception Centre where there was no dedicated community recreational room, and detainees were not provided with books, newspapers/magazines or board games. Further, the only two television sets in the detention areas were not functioning and had not been repaired for months. Consequently, the detained population spent the entire day in idleness. This is unacceptable.

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<sup>46</sup> Breakfast is served from 8a.m. to 9a.m., lunch from 1p.m. to 2p.m. and dinner from 7p.m. to 8p.m.

<sup>47</sup> Extra portions of bread, canned fish and sausages were provided on Fridays.

120. By letter received on 6 January 2015, the authorities informed the Committee that the Ministry of the Interior had been requested to cooperate with other ministries and state agencies in order to remedy the deficiencies outlined by the CPT's delegation in its preliminary observations in relation to the material conditions and lack of activities on offer at the Reception Centre for Foreigners. In particular, it appeared that discussions were ongoing with several international and domestic actors with the aim of refurbishing the Reception Centre and to developing humanitarian programmes and activities of a recreational nature for the detainee population at the centre.

**In light of the findings outlined above, the CPT recommends that the national authorities take the necessary steps to ensure that at the Reception Centre in Skopje:**

- **all damaged furniture and installations are promptly repaired, walls are repainted and the ventilation system is improved through the installation of an adequate air extraction system;**
- **the sanitary facilities in the male detention unit and separate dormitories are repaired (in particular the toilets, showers and boilers);**
- **sufficient funding is made available to ensure that regular maintenance work and disinfection can be carried out;**
- **all detainees are allocated their own bed and provided with a clean mattress and clean bedding which is cleaned at regular intervals;**
- **occupancy rates are revised so as to offer a minimum of 4m<sup>2</sup> of space per detainee in multi-occupancy rooms;**
- **all detained persons are provided with three meals per day and a more varied menu is provided, taking into account the religious requirements and dietary habits of foreign nationals;**
- **cutlery is regularly distributed to every detained person;**
- **a sufficient number of tables and chairs are provided in the male detention unit for the consumption of food by the detained persons;**
- **all detainees are provided with the necessary products and equipment to keep their accommodation clean;**
- **all detained persons staying longer than 24 hours are provided, on a regular basis, with a basic sanitary kit (including adequate rations of soap, washing powder, toilet paper, shampoo, shaving utensils, toothpaste, toothbrush and sanitary napkins), free of charge;**
- **the management of the centre provides at least two hours of access to outdoor facilities for detained persons per day;**
- **each facility has a common association room, equipped with television and games, a library and a prayer room.**

#### **4. Unaccompanied minors**

121. Section 112 of the Law on Foreigners provides that whenever an unaccompanied minor is found to be in violation of the legislation within the territory of "the former Yugoslav Republic of Macedonia", the Ministry of Internal Affairs should inform the competent diplomatic or consular authorities and, if he/she has to be detained, the Social Work Centre should be informed and a guardian appointed in accordance with the Family Law. Further, Section 112 of the Law on Foreigners provides that during the period of detention the unaccompanied minor shall be provided with legal aid, social support and medical and psychological care and shall have a right to education.

In practice, none of these requirements was fulfilled as regards the 13 unaccompanied minors met by the delegation at the Reception Centre. In particular, the only action taken by the authorities in relation to unaccompanied minors was to inform the Social Work Centre in Skopje with the aim of appointing a guardian. However, the unaccompanied minors confirmed to the CPT's delegation that they had never had any contact with their guardians nor had they been informed of the procedure related to their appointment. As mentioned above, the 13 unaccompanied minors were accommodated with adults whom they did not know and were not provided with any support. No educational or purposeful activities were offered to juveniles and many of them did not even possess adequate clothing or proper footwear. Some of the 13 unaccompanied minors at the Reception Centre had been in detention for more than two months. Further, police officers had no specific training for working with irregular migrants (see also paragraph 123), let alone unaccompanied minors.

122. Following the principle of the “best interests of the child”, as formulated in Article 3 of the United Nations Convention on the Rights of the Child,<sup>48</sup> detention of children, including unaccompanied children, is rarely justified and, in the Committee's view, can certainly not be motivated solely by the absence of residence status.<sup>49</sup> The CPT considers that unaccompanied minors should not be detained. When exceptionally a child is detained, the deprivation of liberty should be for the shortest possible period of time pending their placement in an establishment where more appropriate care can be provided. As soon as possible after the presence of an unaccompanied minor becomes known to the authorities, a professional qualified person should conduct an initial interview, in a language the child understands. An assessment should be made of the child's particular vulnerabilities, including from the standpoints of age, health, psychosocial factors and other protection needs (including those deriving from violence, trafficking or trauma). Unaccompanied minors deprived of their liberty should be provided with prompt and free access to legal and other appropriate assistance, including the assignment of a guardian or legal representative.

At the end of the visit, the delegation invoked Article 8, paragraph 5 of the Convention and requested the national authorities to ensure that unaccompanied minors are not detained at the Reception Centre and are placed in an appropriate child-centred environment. By letter of 6 January 2015, the authorities informed the CPT that discussions were ongoing between the Ministries of the Interior and Labour and Social Policy on the necessity to assign unaccompanied minors intercepted within the territory of “the former Yugoslav Republic of Macedonia” to the care of the social work centres.

**The CPT recommends that unaccompanied minors not be detained any longer at the Reception Centre and instead be placed in an appropriate child-centred environment under the responsibility of the Ministry of Labour and Social Policy.**

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<sup>48</sup> See General Comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (Article 3, paragraph 1) by the Committee on the Rights of the Child.

<sup>49</sup> See the 19<sup>th</sup> General Report on the CPT's activities: section concerning safeguards for irregular migrants deprived of their liberty (CPT/Inf (2009) 27, paragraph 97). See also Guideline 22 of the Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice adopted on 17 November 2010.

## 5. Staffing

123. The CPT wishes to point out once again the particular importance it attaches to the careful selection and appropriate training of supervisory staff in centres for immigration detainees. As well as possessing well-developed techniques of interpersonal communication, the staff concerned should be familiarised with the different cultures of the detainees and at least some of them should have relevant language skills.

These requirements were not met at the Reception Centre where none of the 22 custodial officers had undergone specific training on working with immigration detainees. At the time of the visit, an additional 18 uniformed officers had been seconded to the centre in light of the recent increase of the detained population; there were three daily shifts of 14, 14 and 12 officers respectively. The rest of the centre's staff consisted of one director, one police inspector, one psychologist, one social worker and one administrative assistant.

The CPT's delegation was able to observe that police officers at the Reception Centre did not engage in meaningful contact with the irregular migrants (apart from the purchase of items on their behalf in outside shops) and in fact spent little time inside the accommodation units. Further, as already mentioned in paragraph 111, the CPT's delegation noted that custodial staff openly carried truncheons and even firearms in the centre's detention units; in the CPT's opinion, this is clearly not conducive to the development of positive relations between staff and detained persons.

**The CPT recommends that the national authorities review the staffing of the Reception Centre in Skopje in light of the above remarks in particular by providing specialised training to custodial officers and with a specific focus on interpersonal and cross-cultural communication. Further, it also recommends that steps be taken to ensure that staff working at the Reception Centre do not openly carry truncheons, and never carry firearms in detention areas.**

## 6. Health care

124. The CPT has also long stressed the importance of the presence of health-care staff at immigration centres on a daily basis. A Memorandum of Understanding (MoU) signed in 2009 between the Ministry of the Interior and the Red Cross ensured the presence of a medical doctor at the centre three times a week and on an *ad hoc* basis whenever a group of irregular migrants was admitted to the centre. The delegation was informed that efforts were ongoing in order to secure funds for the creation of a permanent post of a general practitioner. The CPT's delegation was able to verify that in practice a doctor from the Red Cross visited the establishment on average once a week for up to six hours.

Foreign nationals in need of emergency medical care were transferred to the outpatient facilities of Skopje city hospital. There was also a full-time psychologist but no arrangements were in place if it was necessary for a psychiatrist, dentist or paediatrician to visit the establishment.

125. The visiting doctor saw patients in a small consultation room supplied with very basic equipment (such as a stethoscope and a manometer) and medication (antibiotics, bronchodilators, medication for the cardiovascular system, antidepressants and analgesics). However, the medication was not properly stored and some medicines had expired.

Following a previous NPM recommendation from 2012 the dedicated register of medical consultation was now stored in a locked cabinet and was not accessible to custodial staff. That said, no personal medical files were created upon the admission of detained persons and all relevant diagnostic and therapeutic information was recorded in the above-mentioned register.

In terms of treatment, basic medical care was provided to detained persons by the visiting doctor and emergency extractions (referrals) of detainees were conducted, in the case of need at the Skopje Civil Hospital. At the time of the CPT's visit, two detainees were receiving diabetic insulin treatment and in the course of 2014 other residents had been provided with substitute methadone therapy.

However, it was a major problem that detained persons at the Reception Centre did not enjoy prompt access to a doctor in the case of a health-related problem as requests to that effect were very often denied by custodial staff.

126. Annexe I of the above-mentioned MoU provides that a medical screening be conducted upon the admission of an irregular migrant (including laboratory tests, screening for HIV and tuberculosis and, depending on the origin of the foreign nationals, for malaria). In practice this was not the case at the time of the CPT's visit to the Reception Centre. For example, the two most recently admitted groups of irregular migrants had not yet been visited by a doctor respectively 18 and 14 days after their admission. Further, the delegation was informed by the doctor that tests for transmissible diseases were not conducted upon admission.

Moreover, no protocols on hunger strike or suicide prevention were in place at the centre (nor were they provided for in by the memorandum). This is an even greater a source of concern for the Committee as cases of hunger strike and suicide attempts did not appear to be infrequent from the registers consulted by the delegation. For example, a person who had attempted suicide on 1 October 2014 by hanging had been isolated and put under enhanced security supervision.

**127. The CPT recommends that the national authorities conduct a structural re-organisation of the health-care services at the Reception Centre for Foreigners which should include the following steps by:**

- **ensuring the presence of a general practitioner in proportion to the number of detained persons and the recruitment of two full-time nurses;**
- **ensuring that every newly-arrived detainee is clinically assessed by a medical doctor or by a fully qualified nurse reporting to a doctor as soon as possible and in any case no later than 24 hours after his/her admission to the Reception Centre. Such medical screening should also imperatively include tests for transmissible diseases;**
- **ensuring that the health-care service be organised in a manner that allows requests to consult a doctor to be met without undue delay;**

- opening personal medical files of detainees on an individual basis and keeping them locked;
- ensuring that the stock of medicines is regularly reviewed and replaced;
- adopting and implementing protocols in the field of suicide prevention and hunger strikes of detained persons.

128. The importance of medical screening of irregular migrants on admission to a detention centre can also be linked to the timely recording of injuries. In that respect the delegation was informed by the doctor that there was no obligation for the doctor to record and report any observed injury on foreign nationals that might be related to physical ill-treatment to the competent authorities.

**The CPT recommends that measures be taken to ensure that a record is drawn up after the medical examination of a detained person – whether newly arrived or following a violent incident at the Reception Centre – containing the following elements:**

- (i) an account of statements made by the person which are relevant to the medical examination (including his/her description of his/her state of health and any allegations of ill-treatment);**
- (ii) a full account of objective medical findings based on a thorough examination;**
- (iii) the doctor's observations in the light of i) and ii) indicating the consistency between any allegations made and the objective medical findings.**

**Recording of the medical examination in cases of traumatic injuries should be made on a special form provided for this purpose, with "body charts" for marking traumatic injuries that are kept in the medical file of the detainee. If any photographs are made, they should be filed in the medical record of the detained person concerned. In addition, documents should be compiled systematically in a special trauma register where all types of injuries should be recorded.**

**The results of every examination, including the above-mentioned statements and the doctor's opinions/observations, should be made available to the detainee and, with the consent of the detainee, to his or her lawyer. Further, the existing procedures should be reviewed in order to ensure that whenever injuries are recorded which are consistent with allegations of ill-treatment made by a detained person (or which, even in the absence of allegations, are indicative of ill-treatment), the report is immediately brought to the attention of the relevant prosecutor regardless of the wishes of the person concerned.**

## 7. Other issues

129. In accordance with Article 7 of the Rulebook a police officer must inform the detained person, upon his/her admission and in a language he/she understands, of the rights, the house rules of the establishment and the options of forced and voluntary return to their home countries. That said, numerous detained persons at the centre told the CPT's delegation that they had not received any type of verbal or written information concerning their rights, the house rules and the modalities of their deportation upon their admission. In particular, the delegation observed that posters in the local language indicating the timing of daily events at the centre (i.e. house rules) had only been displayed on the walls of the detention units during the second day of the CPT's visit to the centre and clearly did not correspond to the extremely impoverished regime in force at the establishment (as described in paragraph 119).

It is in the interests of both irregular migrants and staff that there be clear house rules at the detention facilities and copies of the rules should be made available in a suitable range of languages. The house rules should primarily be informative in nature and address the widest range of issues, rights and duties which are relevant to daily life in detention. Further, detained persons should receive complementary information verbally from staff.

**The CPT recommends that the national authorities provide a copy of the house rules to foreign nationals detained on their arrival at the establishment in a language understood by them.**

130. Further, all detained persons met by the delegation appeared to have no understanding of their legal situation, of the maximum length of their period of detention and of what would happen with them at the end of that period. The only document in their possession was a record of seized personal objects drawn up at the time of their admission to the centre. The personal files of the detained persons in principle contained the decisions on temporary detention of an alien as well as of accommodation at the reception centre without the signature of the person in question. Only the decision on temporary detention was translated into English and referred to the avenues for complaint against this decision. The legal ground for the detention of a person was normally referred to in the decision but no mention was made to its duration. Further, it appeared that no automatic review of the detention was contemplated by the legislation. The vast majority of detained persons the CPT's delegation had spoken to did not have access to legal aid at any stage of their proceedings as the national legislation provides that only asylum seekers are eligible for free legal aid.<sup>50</sup>

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See Section 12, paragraph 2 of the Law on Free Legal Aid (Official Gazette nos. 161/09 and 185/11).

**The CPT calls upon the national authorities to ensure that all persons held under aliens legislation:**

- **have an effective right of access to a lawyer as from the very outset of their deprivation of liberty and at all stages of the proceedings including access to free legal aid;**
- **receive, when necessary, the assistance of a qualified interpreter;**
- **are fully informed of their situation, their rights (including the right to lodge complaints) and the procedure applicable to them. This should be ensured by the provision of clear verbal information at the very outset of deprivation of liberty, to be supplemented at the earliest opportunity (that is, immediately upon first entry in detention premises) by a written form. The form should be available in the languages most commonly spoken by those detained under aliens legislation, and should contain information on detainees' rights, house rules and applicable procedures. The establishments' house rules should also be translated in a variety of languages and posted around the detention areas.**

**Further, the CPT recommends that the national authorities take the necessary steps in order to ensure that a mechanism of periodic judicial revision of the detention of foreign nationals under the alien legislation is put in place.**

131. The CPT's delegation met a number of detained persons who alleged that they had not been allowed to inform a third party of their situation. In some cases, persons could not inform a family member or a consular representative for weeks and even months.

**The CPT recommends that the national authorities ensure that persons detained under the alien legislation have an effective right, as from the very outset of their deprivation of liberty (i.e. from the moment when the persons concerned are obliged to remain with a law enforcement agency), to inform a relative or a third party of their choice of their situation. In this respect telephones permitting international calls should be installed at the Reception Centre and the use of modern technology in facilitating communications (i.e. through Voice over Internet Protocol or Skype) should be explored. Lastly, the CPT invites the authorities to envisage the possibility of allowing foreign nationals without funds to be granted the possibility to make a free phone call.**

132. Section 16, paragraph 1 of the Law on Asylum and Temporary Protection stipulates that a request for asylum can be submitted at a border crossing or the nearest police station. In practice, it was more frequent that detained persons filed an asylum request at the Reception Centre. That said, several detained persons told the CPT's delegation that their requests to file asylum applications were accepted only after reiterated appeals to custodial staff at the centre.

**The CPT recommends that steps be taken in order to ensure that foreign nationals detained under the alien legislation benefit from an effective right to file asylum applications at any stage of their detention and in particular after their transfer to the Reception Centre.**



133. The CPT considers contacts with the outside world to be essential for the well-being of detained persons. Consequently, detained irregular migrants should be afforded every opportunity to maintain such contacts. In this context, Article 16 of the Rulebook stipulates that a detained person can use a telephone under the supervision of a staff member, can receive visits lasting a maximum of 30 minutes with the consent of the director of the centre or his delegate, and parcels.<sup>51</sup> These provisions appeared to be rarely applied in practice at the Reception Centre and the CPT's delegation received confirmation from numerous detained persons that the same provisions were in fact arbitrarily applied. Telephone calls were rarely permitted by staff members and in the case of problems of connection with their countries of origin repeated attempts would not be permitted. Further, mobile phones were taken away from detainees upon admission. As regards visits, the delegation could ascertain that a dedicated register was in use but there were no clear rules as to their organisation, frequency and setting, nor was a dedicated visiting facility in place. In particular, several detained persons had told the delegation that they had not been allowed to meet with their visitors in light of arbitrary impediments imposed by staff (such as the lack of a previous notification of the visitor's arrival and of a dedicated visiting facility).

As the CPT has reiterated on many occasions, the conditions of detention for irregular migrants should be less restrictive than those of criminal suspects or prisoners. The Committee can see no reason why detained persons should not be permitted to keep their mobile phones.

**The CPT recommends that the national authorities facilitate immigration detainees' frequent access to the telephone (at the detainee's own expense) including through Voice over Internet Protocol or Skype and permit detained persons to retain their mobile phones by amending the relevant regulations accordingly. Further, it recommends that the authorities introduce a comprehensive visiting policy for detained persons at the centre and to ensure that all immigration detainees are allowed to receive as many visits as possible in a dedicated visiting facility.**

134. As regards inspections, the NPM paid regular and unannounced visits to the centre (once a year since 2012) and produced visit reports with recommendations, the implementation of which varied. For example, the NPM's reiterated recommendations to promptly conduct a medical screening of detained persons upon admission and to provide detained persons with personal hygiene items and cleaning products, as well as to comply with the special accommodation needs of detained families, had not yet received a positive follow-up by the authorities. None of these recommendations had been implemented at the establishment at the time of the visit by the CPT's delegation.

Further, no established procedure was in place at the establishment (nor was it provided for in the Rulebook) allowing detained persons to file written complaints to external independent bodies such as the Ombudsman.

**The CPT recommends that the national authorities introduce a written complaint system to both internal and external authorities for the detained population accommodated at the Reception Centre.**

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<sup>51</sup> To be opened at the presence of a police officer.

## **E. Psychiatric institutions**

### **1. Preliminary remarks**

135. In the course of the 2014 periodic visit, the CPT's delegation visited for the third time Demir Hisar Psychiatric Hospital and conducted a follow-up targeted visit to Ward II for acute male patients at Skopje Psychiatric Hospital.<sup>52</sup>

Demir Hisar Psychiatric Hospital, serving the south-western part of the country, accommodated 332 patients (230 male and 102 female) at the time of the visit for a capacity of 385. An additional 123 patients were receiving non-residential care at the affiliated therapeutic day centre in Demir Hisar and 115 were regularly visiting the community mental health centre in Prilep. Thirteen admissions to the hospital had been involuntary civil placements in the course of 2014 (out of a total of 303 admissions).

Skopje Psychiatric Hospital, serving the north-western part of the country, accommodated 189 patients (121 male and 68 female) for a capacity of 383.<sup>53</sup> At the time of the visit, Ward II for acute male patients had a capacity of 40 and was accommodating 36 patients, of whom four were involuntary hospitalisations. Three community mental health centres were affiliated to the establishment and were providing therapeutic treatment to approximately 300 patients.

136. The efforts of the authorities in the field of mental health continued to focus on the development of outpatient psychiatric care and care in the community.<sup>54</sup> In this respect, since 2012 one new mental health centre in the community has been opened at the national level (Skopje North) and two more were planned for 2015 in the cities of Bitola and Kičevo. Such initiatives have been coupled with investments by the Ministry of Health to improve the material conditions in particular at Skopje Psychiatric Hospital, following the inauguration of a renovated building in May 2013 which was accommodating geriatric and acute patients.

137. As regards patients subject to court-ordered forensic psychiatric treatment (130 at the time of the visit at the national level), they continued to be accommodated in principle in dedicated wards (male patients) or in female acute wards, together with hospitalised civil patients at the three existing psychiatric hospitals in the country. In this respect, it was unclear to the delegation whether or not the previously announced plan of the authorities to construct a specialised forensic psychiatric institution in the vicinity of Skopje Psychiatric Hospital had been abandoned. **The Committee would like to receive the comments of the relevant authorities on its plans to create a single specialised forensic psychiatric institution at the national level.**

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<sup>52</sup> The CPT had visited Demir Psychiatric Hospital in 2006 and 2010 and Skopje Psychiatric Hospital during its 2002, 2006 and 2010 periodic visits to the country.

<sup>53</sup> The delegation was informed, however, that the official capacity was a theoretical figure which varied and in principle depended on the number of beds available in the establishment at a given time.

<sup>54</sup> According to the 2014 Government Programme for the Health-Care Protection of Persons with Mental Disabilities, there were 700 patients treated in mental health community day centres at the national level.

## 2. Ill-treatment

138. At Demir Hisar Psychiatric Hospital, patients generally spoke favourably of their relations with staff and the overall atmosphere had improved since the CPT's last visit in 2010, in particular on the forensic ward (X). However, several patients interviewed on the male acute ward (IV) stated that they had been subject to physical and/or verbal ill-treatment from orderlies working on the ward. The alleged physical ill-treatment consisted of blows with batons to the back by orderly staff in order to bring agitated patients under control.

At Ward II for acute male patients of Skopje Psychiatric Hospital, numerous allegations of physical ill-treatment of male patients by orderly staff were received by the CPT's delegation. The allegations consisted mainly of slaps, punches and kicks to various parts of the body and were generally linked to the staff's reaction to over-agitated patients.

**The CPT recommends once again that the relevant national authorities remind staff at Demir Hisar and Skopje Psychiatric Hospitals that patients should be treated with respect and that any form of ill-treatment – including verbal abuse – is unacceptable and will be punished accordingly. Further, staff serving at the above-mentioned hospitals should be properly trained in handling challenging situations/behaviour by patients.**

139. The CPT's delegation also received numerous allegations of inter-patient violence and intimidation at Ward II of Skopje Psychiatric Hospital due to the presence of aggressive patients in the most acute phase of their mental health disorder as well as the levels of understaffing during the afternoon and night shifts as well as during weekends (see paragraph 151). For example, during the delegation's visit to the ward, one patient was bleeding from the right ear after having just been punched by another patient. The atmosphere was generally tense, with frequent screams and insults among patients. As a result of the frequent episodes of violence and intimidation, the ward premises bore visible signs of damage such as broken glass in the windows and doors, dilapidated furniture (TV set, chairs, tables and sofas in the so-called "recreational room") and broken taps in the sanitary facilities. Some patients told the CPT's delegation that they were forced to sleep with their personal belongings in their pockets in order to avoid them being stolen by other patients.

The incidence of inter-patient violence in psychiatric hospitals was already described by the CPT in the course of its 2010 periodic visit to the "former Yugoslav Republic of Macedonia".<sup>55</sup> As a result, in December 2010 the Ministry of Health adopted a four-year strategy on combating inter-patient violence in hospitals which included among other things the introduction of a system of reporting and documenting ill-treatment as well as effective complaint procedures in all the psychiatric establishments at the national level.

**The Committee calls upon the authorities to take measures to ensure that staff at both establishments protect patients from other patients who might cause them harm. This requires an adequate staff presence and supervision at all times, including at night and weekends. The CPT would like to receive the assessment of the Ministry of Health on its four-year strategy (2011 to 2014) to combat inter-patient violence in psychiatric hospitals including in particular the actions taken in respect of documenting and analysing episodes of inter-patient violence, as well as the introduction of effective complaints procedures.**

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<sup>55</sup> See e.g. the report on the CPT's visit in 2010 CPT/Inf (2012) 4, paragraphs 94 to 100.

### 3. Patients' living conditions

140. The material conditions at both Demir Hisar and Ward II for male patients at Skopje Psychiatric Hospital were, with some exceptions, poor.

At Demir Hisar Psychiatric Hospital, a few material improvements had been made since the 2010 visit, notably as concerns the renovation of the sanitary facilities in the female wards (I, VII and VIII).<sup>56</sup> That said, with the exception of wards II (acute adolescent) and IX (chronic alcoholism) which offered living conditions of a satisfactory standard, the remaining wards remained in a poor state of repair and hygiene. In particular, all male and forensic wards (III, IV, V and X) displayed dilapidated windows and furniture, damaged plaster and cracked walls and flooring, old beds, worn and dirty mattresses and missing or malfunctioning artificial lighting.

Most of the wards offered poor hygienic and at times insalubrious conditions. The stench of urine pervaded wards III, IV, VII, and VIII, and levels of humidity above 60 per cent were recorded in ward VIII by the CPT's delegation. The sanitary facilities in the wards for male patients (III, IV and V) were in an execrable state of dilapidation and insalubrity with broken windows, missing tiles, holes in the floor (gushing forth water due to unfinished maintenance works), broken taps and water constantly leaking from the malfunctioning plumbing. Further, on ward IV (geriatric male), 39 patients had to use a basic chair which had most of its seat removed and which was placed over a floor-level toilet; this is totally inadequate and indecent. Patients received limited quantities of shampoo for their weekly shower but no soap was provided on a daily basis, and toothbrushes were distributed to only a small number of patients by staff. To sum up, it was impossible for patients to attend to their personal hygiene in such conditions.

141. At Ward II for male patients at Skopje Psychiatric Hospital, living conditions were extremely poor. Several window panes, screen doors, handles, tables and chairs in the community room and refectory, showers and washbasins had been damaged during the frequent episodes of inter-patient violence. The hygiene on the ward also left much to be desired, the air was stale and emanated the odour of human sweat, walls were often unplastered, spiders' webs were widespread in patients' rooms, beds were damaged and sanitary facilities were filthy, with faeces on the floor.

142. At Demir Hisar Psychiatric Hospital, wards II and IX (and a few rooms on the forensic ward X) had a minimal degree of decoration and personalisation of recreational and sleeping rooms (in particular due to the presence of pictures, posters and photos on the walls). However, in the other wards of the hospital as well as on Ward II of Skopje Psychiatric Hospital, the rooms offered an austere and depersonalised environment for patients which was not conducive to the latter's rehabilitation. Further, with a few exceptions, patients' beds and bedding were generally in a poor state of repair on the above-mentioned wards of Demir Hisar and Skopje Psychiatric Hospitals.

143. In terms of occupancy levels, they were barely acceptable at Ward II of Skopje Psychiatric Hospital with rooms measuring 36m<sup>2</sup> accommodating eight patients. The situation was more serious on wards III, IV and V of Demir Hisar Psychiatric Hospital where the living space per patient totaled less than 4m<sup>2</sup> (e.g. seven patients in 25m<sup>2</sup> at Ward X and five in 19m<sup>2</sup> at Ward III).

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The renovation of the sanitary facilities on the above-mentioned wards had been finalised in March 2014.

144. The CPT's delegation observed that on several wards at Demir Hisar Psychiatric Hospital, a majority of patients wore pyjamas or nightgowns during the day as they had no other clothing, despite the CPT having repeatedly pointed out the potential benefits of personal daytime clothing to engender a sense of autonomy in patients at the same establishment.

Some lockable space was available at Demir Hisar Psychiatric Hospital in all wards. However, on Ward II for acute male patients of Skopje Psychiatric Hospital, patients were not provided with personal lockable space and had to sleep with their personal belongings in their pockets to avoid them being stolen by other patients (see paragraph 139).

On some wards of Demir Hisar Psychiatric Hospital as well as on Ward II of Skopje Psychiatric Hospital the delegation observed that cutlery (consisting only of spoons) was insufficient and that consequently several patients used bread as eating utensil.

145. At the end of the visit, the delegation invoked Article 8, paragraph 5, of the Convention, and requested that the authorities take immediate steps to improve the material conditions on wards III, IV, V and VIII at Demir Hisar Psychiatric Hospital. By letter received on 26 January 2015, the national authorities informed the Committee, in writing accompanied by photographic evidence, that the sanitary facilities on ward V of Demir Hisar Psychiatric Hospital had been refurbished. The authorities also announced that the refurbishment of the sanitary facilities in the remaining wards of Demir Hisar Psychiatric Hospital would be completed by the end of February 2015.

**The CPT calls upon the national authorities to pursue vigorously efforts to improve living conditions at Demir Hisar and Ward II of Skopje Psychiatric Hospitals in the light of the remarks made in paragraphs 140 to 145. In particular, they should ensure that:**

- **hygiene throughout the hospitals is of a standard worthy of health-care institutions;**
- **all patients have ready access to decent sanitary facilities;**
- **living space per patient is of an adequate level (i.e. at least 6m<sup>2</sup> in multi-occupancy rooms);**
- **patients have access to properly equipped recreational rooms during the day;**
- **the state of repair and decoration of the accommodation wards is significantly improved;**
- **each patient possesses adequate, preferably individualised, day-time clothing, including for winter, and pyjamas for the night;**
- **each patient has access to a personal, lockable space and an effective means is devised for the safekeeping of personal items.**

146. As regards activities, an adequate range was on offer at Demir Hisar Psychiatric Hospital where patients (after a positive assessment from their treating psychiatrist) could take part in several thematic workshops (music, painting, sewing, metal- and wood-work, as well as physiotherapy), and access an indoor sports facility and a library. Fifty patients were attending workshops in the mornings on a daily basis while an additional 70 were participating in activities on a less regular basis. Conversely, at Ward II of Skopje Psychiatric Hospital, no activities of any kind were available to patients who remained idle in the so-called community room (where the television and chessboards were damaged, and there was no reading material distributed to patients).

**The CPT recommends that the national authorities take immediate steps to offer patients on Ward II of Skopje Psychiatric Hospital a variety of recreational activities and to enable them to take part in activities organised in the rest of the establishment.**

147. Patients from wards IX and II at Demir Hisar Psychiatric Hospital had free access to outdoor exercise every day. That said, patients from the acute and forensic wards, including those who were voluntarily hospitalised, had access to outdoor facilities only upon *ad hoc* arrangements with orderly staff and depending on weather conditions. On Ward II of Skopje Psychiatric Hospital, patients told the delegation that they were in principle granted access to outdoor exercise in the dedicated yard for one hour per day in fine weather.

The CPT wishes to stress that all patients should benefit from unrestricted access to outdoor exercise during the day unless treatment activities require them to be present on the ward. Additional restrictions on access to outdoor exercise for involuntarily admitted patients should only be applied to those patients who represent a danger to themselves or others, and only for as long as that danger persists.

**The CPT recommends that the national authorities take the necessary steps to effectively implement the above-mentioned precepts. This will require that the related security measures and staff arrangements at Demir Hisar Hospital and on Ward II of Skopje Psychiatric Hospital be reviewed accordingly.**

#### **4. Treatment, care and staffing**

148. The treatment of patients at Demir Hisar Psychiatric Hospital remained based on pharmacotherapy. Individual treatment plans were being drawn up systematically in respect of every patient and were included in their personal files but this continued to be done without the participation of the patient. Notes and observations in patients' individual treatment plans were scant and repetitive and lacked any rehabilitative approach. Further, no group or individual psychological support therapy was provided to patients and the only rehabilitative activity consisted of leave and visits to their families. The situation was not much better on Ward II of Skopje Psychiatric Hospital where no rehabilitation or psychological support was on offer to patients with the exception of an introductory meeting with a psychologist upon admission. Patients' individual treatment plans only indicated the dosage and frequency of prescribed medication and had no entries on goals to be attained or assessment of patients' achievements. Finally, at the forensic ward (X) of Demir Hisar Psychiatric Hospital, no treatment was on offer for addressing the challenging behaviour of patients other than pharmacotherapy.

The CPT has repeatedly stressed that psychiatric treatment should be based on an individualised approach, which implies the drawing up of a treatment plan 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 any risk they may pose), indicating the goals of treatment, the therapeutic means used and the staff member responsible. The treatment plan should also contain the outcome of a regular review of the patient's mental health condition and a review of the patient's medication. The treatment of psychiatric patients should, in addition to appropriate medication and medical care, involve a wide range of therapeutic, rehabilitative and recreational activities. Patients should be involved in the drafting of their individual treatment plans and be informed of their progress.

**The CPT recommends that the national authorities develop a range of therapeutic options and involve long-term patients in rehabilitative psycho-social activities, in order to prepare them for independent life or a return to their families; 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.**

**In respect of the forensic ward at Demir Hisar Psychiatric Hospital, as well as in other psychiatric institutions as appropriate, the CPT reiterates its recommendation that specific programmes be introduced to address challenging behaviour.**

149. The provision of medication appeared to be adequate both at Demir Hisar and on Ward II of Skopje Psychiatric Hospital. Patients were generally provided with the latest generation of anti-psychotic medication, and their dosage was within an acceptable range including for newly admitted patients in an acute psychotic state. Further, the supply of medicines was sufficient and the quality and confidentiality of storage of medication in the pharmacies of the respective wards was satisfactory at both establishments. The distribution of medication at both establishments was prepared in individual boxes and administered to patients by nursing staff. Finally patients' medication charts were duly filled in and prescriptions for anti-psychotic medication were periodically reviewed both at Demir Hisar and on Ward II of Skopje Psychiatric Hospitals. That said, the CPT's delegation found that several patients at both establishments who were prescribed Clozapine had not been subject to regular blood tests to check their levels of white blood cells.<sup>57</sup>

**The CPT recommends that the authorities take the necessary steps to ensure that all hospitalised patients under prescribed treatment of Clozapine at the national level be subject to regular blood tests.**

150. As regards access to somatic care, patients accommodated at Demir Hisar Psychiatric Hospital enjoyed satisfactory and prompt access to consultations from both a general practitioner and specialists in the nearby civic hospital.<sup>58</sup> The establishment possessed a fully equipped treatment room (with an electrocardiogram (ECG), an encephalogram (EEG) and two defibrillators) and a laboratory for analysis where screening biological tests of patients upon admission and during hospitalisation were conducted. The medical screening upon admission consisted of blood and urine tests, ECG and EEG as well as a consultation with a specialist in internal medicine.

Access to dental care was satisfactory at Demir Hisar Psychiatric Hospital. A dental surgery, staffed by a dentist and a nurse, operated on working days and performed extractions as well as a dental check-up of every patient on a yearly basis.

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<sup>57</sup> Clozapine can have a potential side effect consisting of a lethal reduction of white blood cells (i.e. granulocytopenia). As a result, blood tests of patients receiving this type of treatment should be conducted on a monthly basis.

<sup>58</sup> 283 specialist consultations had been recorded in the first nine months of 2014.

151. In terms of staffing at Demir Hisar Psychiatric Hospital, there were 13 doctors (nine psychiatrists, three general practitioners and one specialist in internal medicine), 87 nurses and 30 orderlies working on three daily shifts and one single 24-hour shift during week-ends and public holidays. There were shortages as regards the number of orderlies and nurses in some wards in particular in relation to the afternoon and night shifts. For example, on ward I there were no orderlies and one single nurse was in charge of the care of 35 acute psychiatric patients during the night. Finally, the delegation was informed that four psychiatrists were supposed to retire before May 2015 and the management of the establishment had not yet received any assurances as to their replacement. By letter received on 26 January 2015, the authorities informed the Committee that the number of nurses on ward I of Demir Hisar Psychiatric Hospital had been increased to two during the afternoon and night shifts.

On Ward II of Skopje Psychiatric Hospital, three doctors (psychiatrists), one nurse and two orderlies were working a normal morning shift (i.e. from 7a.m. to 2p.m.). That said, it was often the case that only one nurse and one orderly remained in charge of 36 agitated patients for the next two consecutive working shifts (i.e. from 2p.m. to 7a.m.). Similarly, during weekends and public holidays, one nurse and one orderly were working a 24-hour shift on the ward.

Further, the delegation noted that orderlies did not receive initial or any organised ongoing training despite the fact that they had the most contact with patients.

**The CPT reiterates its recommendation that the authorities take urgent steps in order to ensure the presence of adequate staff numbers at Demir Psychiatric Hospital and Ward II of Skopje Psychiatric Hospital, in particular during the afternoon and night shifts. The CPT also considers that the pattern of 24-hour shifts will inevitably have a negative effect on professional standards; no one can perform in a satisfactory manner the difficult tasks expected of health-care staff for such a length of time. Further, the Committee recommends that the authorities guarantee the professionalism of orderly staff by offering initial and ongoing training on interpersonal skills and interaction with patients with mental health disorders.**

**The CPT would like to receive information on the steps taken by the Ministry of Health to guarantee that the psychiatrists taking retirement in the near future will be promptly replaced.**

## **5. Means of restraint**

152. The delegation examined once again the use of means of restraint at the institutions visited. Generally, in terms of appropriateness and length of the measure of mechanical fixation of patients, the CPT did not record any excessive use of restraints at the two establishments. For example, at Demir Hisar Psychiatric Hospital, the immobilisation of a patient was resorted to on 48 occasions in the course of 2013 and 35 during 2014 for periods ranging from one to five hours, whereas on Ward II of Skopje Psychiatric Hospital, the same measure had been applied 46 times in the course of 2014 and 51 times during 2013, generally for periods of one to two hours but in some cases for the entire night (i.e. from 10p.m. to 6a.m.). Interviews with patients and staff, as well as records, indicated that the majority of mechanical fixations took place during the night when staff levels of nurses and orderlies were lower.



153. Over-agitation, aggressive behaviour and suicidal tendencies were recorded as reasons for the application of the measure, in accordance with the 2010 protocols on the mechanical fixation of a patient in force at the establishments visited.

The above-mentioned protocols for the mechanical fixation of patients introduced in 2010 in all psychiatric establishments had been amended in August 2013 and now stipulated that the measure of mechanical fixation had to be enforced in dedicated observation rooms, preferably under video-surveillance, on beds fixed to the floor and under the constant monitoring and supervision of a member of the health-care staff (i.e. a nurse or orderly). Staff interviewed by the delegation had not yet received training on how to apply the protocols. By letter of 26 January 2015, the authorities informed the Committee that both group and individual training sessions of staff were being organised in relation to the implementation of restraint procedures of patients at the national level.

In practice on Ward II of Skopje Psychiatric Hospital, the mechanical fixation of patients was applied in an observation room equipped with a glass screen which was visible to the adjacent orderly staff office (where a staff member was in principle constantly present), and possessing three beds, one of which had leather straps ready for use. Patients confirmed to the delegation that the measure had been applied to them in view of other patients in the same observation room. At Demir Hisar Psychiatric Hospital there were no dedicated observation rooms on the respective wards and patients were mechanically fixated with leather straps to their beds in view of other patients and without constant supervision by staff.

154. The state of the leather straps in use at Demir Hisar Psychiatric Hospital (generally applied to the wrists, ankles and chest of patients) left much to be desired. The devices were extensively worn, and often hurt the patient (as its metal parts came into contact with the patients' skin) and could be easily taken off by them. By letter of 26 January 2015, the authorities informed the Committee that the management of Demir Hisar Psychiatric Hospital planned to renew the equipment used for the physical restraint of patients in the course of 2015.

The delegation also received some consistent allegations regarding the use of metal chains on wards I and VIII of Demir Hisar Psychiatric Hospital for the purpose of restraining female patients. These patients gave precise descriptions of the metal chains in question which allegedly measured between 30 and 40 cm and were fixed to their arms and legs with a padlock. **If true, the chaining of patients to their beds is a totally unacceptable practice and could well be considered as amounting to inhuman and degrading treatment, quite apart from it being potentially physically harmful. The Committee recommends that the authorities conduct an inquiry into whether chains were used as a means of restraint in wards I and VIII of Demir Hisar Psychiatric Hospital and would like to receive a comprehensive account of its findings.**

155. In terms of recording each measure of restraint, new forms on intensive medical observation had been drawn up at Demir Hisar Psychiatric Hospital requiring information to be given of the reason for the restraint measure, its method, the feeding of the patients and their somatic and mental status; however, these were not yet in use at the time of the CPT's visit. Therefore, the episodes of mechanical fixation continued to be recorded in ordinary notebooks indicating only the name of the patient, the duration of the measure and the signature of the doctor ordering it. Finally, as a way of supervising the implementation of the measure, all establishments were now requested to report data on its use to the Ministry of Health on an annual basis.

As regards the status of the patients submitted to means of restraint, the CPT's delegation was able to observe that the same procedure applied to both voluntary and involuntary hospitalised patients (see also paragraphs 160 and 162).

**156. The CPT recommends that the relevant authorities ensure that in the context of the application of means of restraint of a patient, the following precepts are carefully respected:**

- **resort to instruments of physical restraint is only rarely justified and should not be a substitute for proper staff resources;**
- **the duration of the actual means of restraint should be for the shortest possible time (usually minutes to a few hours) and should always be terminated when the reason for the use of restraint has ceased;**
- **mechanical restraint of patients should never take place in view of other patients and should be always under the constant visual monitoring of a health-care staff member;**
- **staff involved in the application of restraint measures should receive training and refresher courses at regular intervals on both the application of means of restraint and on the impact of its use on a patient;**
- **appropriate devices should be used for the mechanical fixation of patients such as purpose-made straps. Old, worn and easily removable devices causing harm to patients should be immediately replaced;**
- **the newly adopted forms for recording the use of means of restraint should be used in all establishments.**

**Further, whenever a voluntary hospitalised patient is submitted without his/her consent to a measure of restraint, his/her legal status should be promptly reviewed by the management of the establishment and the competent court promptly informed.**

157. The CPT's delegation also noted that patients were frequently chemically restrained at both of the establishments visited (i.e. injections of Promazine and/or Haloperidol) in particular while the patient was under mechanical restraint; however, no central register existed to record the use of such measures. Therefore, it was impossible to clarify whether injections had been performed with the consent of the patient.

In the CPT's view, if recourse is had to chemical restraint such as sedatives, antipsychotics, hypnotics and tranquillisers, they should be subject to the same safeguards as mechanical restraints. The side-effects that such medication may have on a particular patient need to be constantly borne in mind, particularly when medication is used in combination with mechanical restraint. Further, competent patients subjected to mechanical restraint should never be medicated without consent, except in situations where patients may be in danger of suffering serious health consequences if medication is not administered. The same principles apply to incompetent patients.

**The CPT recommends that the authorities comply strictly with the above-mentioned precepts when deciding to administer chemical restraint to a patient. Further, a dedicated central register on the use of pharmaceutical (chemical) restraint should be created at all psychiatric establishments at the national level.**

## 6. Deaths of patients

158. No autopsies were performed upon the death of patients at Demir Hisar Psychiatric Hospital and the management of the hospital told the delegation that the 43 deaths which had occurred at the establishment since 2013 were all related to natural causes.

The delegation examined several files and noted in particular that in the case of two patients who had both died on the day of their admission to the hospital, respectively on 22<sup>nd</sup> March 2014 and 30<sup>th</sup> January 2012, no autopsy had been conducted, contrary to the applicable legislation.<sup>59</sup>

**The CPT would like to receive the comments of the authorities on the two above-mentioned deaths at Demir Hisar Psychiatric Hospital.**

Further, the case of M.K., a 35-year-old woman who died at Demir Hisar Psychiatric Hospital on 21 July 2014, was brought to the attention of the delegation. The case of death was recorded as related to “cardiac and respiratory failure”. The patient was admitted to the establishment on 30 June 2014 and her file indicated that since her hospitalisation she had been subjected to thirteen periods of mechanical restraint ranging from six to 17.5 hours, amounting to a total of 157 hours. The records also show that a combination of neuroleptic and anti-epileptic medication were administered to the patient throughout the period of her hospitalisation.

In the CPT’s view, the circumstances of this case would certainly have warranted an autopsy, in particular in order to ascertain whether the prolonged application of restraints to the patient, perhaps also in combination with neuroleptic medication, may have had a bearing on her death. **The Committee would like to receive any clarification that the national authorities can provide concerning the death of M.K. at Demir Hisar Psychiatric Hospital.**

159. In the CPT’s view, just as is the case with other closed institutions, when a patient interned in a psychiatric hospital dies, an autopsy should follow, unless a medical authority independent of the hospital decides that an autopsy is unnecessary or a clear diagnosis of a fatal disease has been established prior to death.<sup>60</sup>

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

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<sup>59</sup> Section 275, paragraph 5 of the Law on Health-care Protection stipulates that an autopsy should always be conducted when a patient dies of unnatural or unknown causes within 24 hours of his/her hospitalisation at any establishment of the Ministry of Health.

<sup>60</sup> See paragraphs 23, 77 and 141, as well as Recommendation Rec(99)3 of the Committee of Ministers of the Council of Europe to member states on the harmonisation of medico-legal autopsy rules.

## 7. Safeguards and complaints procedures

### a. the initial placement decision

160. The legal framework governing involuntary placement of a patient in a psychiatric establishment has remained unchanged since the CPT's visit in 2010 and is regulated by the relevant sections of the 2008 Law on Extrajudicial Procedure.<sup>61</sup> In practice, at the time of the CPT's 2014 periodic visit, very few patients were officially the subject of an involuntary "civil" placement either at Demir Hisar or on Ward II of Skopje Psychiatric Hospital.<sup>62</sup> For example, at Demir Hisar Psychiatric Hospital, no court decisions had been issued in respect of the 13 orders of involuntary hospitalisation addressed by the management of the hospital to the Bitola District Court between January and October 2014. Similarly, on Ward II of Skopje Psychiatric Hospital, none of the three involuntarily admitted patients present at the time of the CPT's visit had received confirmation by the court of their placement.

In practice, the tendency was for patients to be declared voluntary even when they had clearly not consented to stay in the establishment. During the visit, the CPT's delegation received from patients consistent allegations of pressure used in order to obtain consent and in a few cases found consent hospitalisation forms which had been signed by the respective patients while they were clearly in a psychotic state (i.e. using a sequence of numbers or unintelligible characters instead of a proper signature). Further, the admission forms of voluntarily admitted patients were often signed several weeks after admission, were incomplete and included the signatures of witnesses who were not allowed to act as such in accordance with Section 59, paragraph 2, of the Law on Extrajudicial Procedure.<sup>63</sup> By signing the so-called voluntary hospitalisation form, patients agreed not to leave the establishment without informing and obtaining the agreement of their treating psychiatrist. By letter received on 26 January 2015 the national authorities informed the CPT that a working group on the revision of the involuntary hospitalisation form had been set up in order to bring it into line with the existing legislation regarding the rights of voluntarily admitted patients. **The CPT would like to receive information on the outcome of the efforts of the above-mentioned working group.**

**Further, the CPT reiterates its recommendation that proper involuntary placement procedures be followed and in good time, whenever genuine informed consent to placement is not, or cannot be obtained, or whenever a patient subsequently revokes his/her consent to placement.**

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<sup>61</sup> In compliance with Section 58 of this law, whenever a patient is forcibly hospitalised in a psychiatric establishment without his/her consent, a report has to be submitted to the competent court within 48 hours. The court is then under the obligation to order an examination of the patient (Section 64), to examine the circumstances that influenced the adoption of the decision and to interview the individual concerned (Section 65), and to adopt within three days a decision on the prolongation of the hospitalisation measure or the discharge of the patient (Section 66).

<sup>62</sup> At Demir Hisar Psychiatric Hospital, only 13 out of the 303 newly hospitalised patients in the course of 2014 were involuntary placements.

<sup>63</sup> Section 59, paragraph 2, of the Law on Extrajudicial Procedure stipulates that a patient's voluntary hospitalisation form must be signed by two witnesses who are not employees of the public administration or close relatives of the patient. At Demir Hisar Psychiatric Hospital, hospital staff, police officers and relatives of the patient were the usual signatories of certified statements.

b. forensic psychiatric placement

161. At the time of the CPT's visit there were approximately 130 individuals who were undergoing a court-imposed security measure of mandatory psychiatric treatment in a prison or health-care institution at the national level.<sup>64</sup> On the forensic wards of Demir Hisar and Skopje Psychiatric Hospitals there were respectively 34 and 27 patients at the time of the CPT's visit who were under a security measure of mandatory psychiatric treatment or were undergoing a forensic psychiatric assessment.

As regards the safeguards surrounding their placement, the CPT's delegation found that patients at Demir Hisar Psychiatric Hospital were informed of the legal avenues for challenging their placement, of the correspondence with the relevant court related to their cases and in particular of the state of the yearly *ex officio* review of their measures. The management of both hospitals sent periodic assessment reports on the state of the patients to the competent courts. That said, it appeared that courts had become increasingly reluctant to approve requests for therapeutic weekend leave for patients proposed by the treating staff of the respective establishments,<sup>65</sup> mainly due to security concerns. The CPT's delegation was informed that a joint letter of the directors of the three psychiatric hospitals had been addressed to all courts in the country in order to stress the importance of approving therapeutic weekends to patients in view of their rehabilitation programme and to advocate a less stringent approach. At the forensic ward of Skopje Psychiatric Hospital, for example, courts had rejected all requests for therapeutic weekends proposed by the treating psychiatrists in the course of 2014. **The CPT would like to receive information on any further action taken in respect of the above-mentioned correspondence between the Ministry of Health and the judicial authorities.**

c. safeguards during placement

162. As had been the case during previous CPT visits, no progress had been made on the distinction between free and informed consent to treatment of a patient as opposed to his/her consent to placement. Treating psychiatrists operating on all wards of the establishments visited informed the delegation of their clear understanding that a patient's consent to voluntary hospitalisation or a motion of involuntary placement of a patient would entitle them to impose any medical treatment they judged necessary for the patient in question.

163. As regards the statutory rights of psychiatric patients to complain to the director of the institution as provided by Section 26 of the Law on Mental Health, complaints boxes were present only in some of the wards and on the premises of the rehabilitation centre of Demir Hisar Psychiatric Hospital. Moreover, complaints filed by patients were not processed due to the prolonged absence of the patients' rights officer on maternity leave. Copies of the Law on Patients' Rights were displayed on posters in most of the wards of the hospital.

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<sup>64</sup> In accordance with the relevant provisions of the Criminal Code offenders may be sentenced to the following security measures: a) compulsory psychiatric treatment and custody in a health-care institution; b) compulsory psychiatric treatment in the community; c) compulsory treatment of alcohol and drug addicts.

<sup>65</sup> According to the relevant Rulebook on the House Rules of Health-care Institutions for Persons subject to a Security Measure of Mandatory Psychiatric Treatment and Protection (Official Gazette 3/97), forensic psychiatric patients who have served at least one-third of their imposed security measure are entitled to a maximum of seven days of leave of absence (i.e. therapeutic weekend leave) per month upon the approval of the competent court.

On Ward II of Skopje Psychiatric Hospital, a complaints box was present in the nurses' office but was not accessible to patients. Further, a patients' rights officer had been appointed at the establishment in accordance with the 2008 law that created this function but patients interviewed by the delegation on Ward II were not aware of the possibility of filing complaints or seeking advice from the officer in question. By letter of 26 January 2015 the authorities informed the CPT that complaints boxes had been installed in all the wards of the psychiatric hospitals visited.

The CPT's delegation was also informed that the Commission for Mental Health in the Community had finally been established at the municipal level in Demir Hisar in accordance with the relevant provisions of the Law on Mental Health but had not in practice been functional for the past two years. By letter received on 26 January 2015, the authorities informed the CPT that the management of the Demir Hisar Psychiatric Hospital had sent a letter to the Demir Hisar Municipality on the issue of revitalising the work of the local Commission for Mental Health in the Community.

**The CPT calls upon the national authorities to ensure that effective complaints procedures are put in place enabling patients to lodge complaints on a confidential basis. Further, steps should be taken to ensure that the patients' rights officer effectively performs his/her duties in a proactive manner by informing patients of their statutory rights under the Law on Mental Health.**

164. The delegation was able to verify that patients were allowed regular contacts with the outside world at both establishments visited either through regular family visits or mobile phone communications (including for forensic patients). Further, at Demir Hisar Psychiatric Hospital a room for conjugal visits was available to patients and group excursions of up to 15 patients were organised on a fortnightly basis.

165. As regards inspections, the Ombudsman Institution, by virtue of its National Preventive Mechanism (NPM) function was now regularly visiting all psychiatric establishments in the country and producing periodic reports with recommendations to the national authorities. The NPM had visited the Demir Hisar and Skopje Psychiatric Hospitals in 2012 and 2014 respectively.

As already stated, the Commission on Mental Health in the Community had not been functioning since 2012 and had last visited the Demir Hisar psychiatric hospital in 2011.

In October 2010, the Ministry of Health established a commission tasked to carry out professional supervision in all national psychiatric hospitals. However, it appeared that the commission had not visited the psychiatric establishments since December 2010.

**The CPT would like to receive information on the developments regarding the resumption of activities of the Commission on Mental Health in the Community as well as the thematic commission established by the Ministry of Health at the national level in 2010.**

d. guardianship

166. At Demir Hisar Psychiatric Hospital, 23 patients were under guardianship at the time of the CPT's visit. Guardians were appointed by the relevant social work centre based on a court decision on the removal of a patient's legal capacity (see paragraph 183) and were generally family members or social welfare officers. From the examination of the relevant personal files of patients, the CPT's delegation was able to observe that there had been no reviews of the status of the above-mentioned patients since the respective court decision on the removal of their legal capacity, which in one case dated back to 2000. In fact, the national legislation (see paragraph 183) does not provide automatic reviews of the court decision removing a person's legal capacity.

**The CPT recommends that the national authorities introduce periodic reviews of the court decision on the deprivation of legal capacity of a person in line with Principle 14 of Recommendation Rec(99)4 of the Committee of Ministers of the Council of Europe to member States on Principles concerning the Legal Protection of Incapable Adults.**

**F. Establishments under the authority of the Ministry of Labour and Social Policy**

**1. Preliminary remarks**

167. The CPT carried out a follow-up visit to the Special Institution for mentally disabled persons in Demir Kapija (Demir Kapija Special Institution) and visited for the first time the Public institution for caring, upbringing and educating children and adolescents “Ranka Milanovic”.

168. Since the CPT’s previous visit in 2010, the “2008-2018 deinstitutionalisation strategy” continued to result in an increase in non-institutional care measures for children and adults suffering from mental disabilities.<sup>66</sup> Further, the entry into force of the United Nations Convention on the Rights of Persons with Disabilities (CRPD) in December 2011 provided further impetus to the reforms envisaged by the Ministry of Labour and Social Policy in the field of de-institutionalisation of residents in social care establishments. In particular, since 2011 the Ministry, in cooperation with a parent NGO, had started to develop several community-based housing projects in the cities of Negotin and Skopje. At the time of the visit, these housing projects accommodated 76 persons in 14 housing units, of whom 58 were former residents of the Demir Kapija Special Institution. The CPT was informed that the Ministry would soon start a similar project in Velez for the accommodation of a further 20 persons who had been assessed as capable of gradual integration into community life.

**2. Demir Kapija Special Institution for mentally disabled persons**

**a. preliminary remarks**

169. It was the CPT’s fourth visit to the Demir Kapija Special Institution, the last one having taken place in 2010. The establishment accommodated 232 residents (108 females and 124 males) at the time of the visit which constituted a reduction in the establishment’s population by 32 since 2010. Despite the ongoing de-institutionalisation process referred to above, the Institution continued to receive an average of ten new admissions per year of individuals with severe mental disabilities referred by the respective social work centres.

The establishment still comprised two main blocks: the so-called Health Department (including the interconnected A, B and C wards) and the “New Object” where less dependent residents (75 at the time of the CPT’s visit) were accommodated in six apartments. The former separate “*dependance*”, located a few kilometres from the establishment, had been closed down and the residents transferred to the main premises.

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<sup>66</sup> Notably through increased recourse to foster families and gradual integration into the community in group assisted homes for adults as well as the gradual transformation of the existing social care establishments into day-care centres.



b. ill-treatment

170. The CPT's delegation received no allegation of ill-treatment of residents by staff. On the contrary, the delegation noted that positive relations existed between staff and residents at the Institution.

That said, there were frequent episodes of aggressive behaviour by residents towards other residents and occasionally directed at orderlies on Ward C2. Orderlies had to resort to manual control and temporary isolation of residents to manage the situation. The insufficient presence of orderly staff on the C wards at night was an aggravating factor (see paragraph 175). Further, in the orderly room of Ward C2 the CPT's delegation found a 50-cm-long rubber hose covered in tape on one side, the use and purpose of which the orderly staff on duty could not provide a reasonable explanation.

The authorities' obligation to care for residents includes the responsibility to protect 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. An adequate staff presence should likewise be ensured at all times, including at night and weekends.

**The CPT recommends that the Ministry of Labour and Social Policy take appropriate measures to comply with the above-mentioned precepts. Further, any non-standard issue object capable of being used for inflicting ill-treatment should be removed from the premises of the establishment.**

c. living conditions

171. As regards material conditions the A wards had been refurbished since 2010 which included plastering and painting of the walls and installing new flooring, windows, bedding and furniture. On the whole, the A wards now offered satisfactory living conditions to the 50 residents accommodated there.

By contrast, the state of repair and hygiene in the B wards had deteriorated: walls lacked plaster in several rooms, the electricity was non-functioning in all the sanitary facilities and the smell of urine was pervasive. The separate building block of the "New Object" which had been inaugurated in 2008 showed signs of disrepair in particular in respect of the sanitary facilities (i.e. broken tiles and plumbing installations and dilapidated toilets).

However, Wards C1 and C2 which were accommodating respectively 31 male and 25 female residents (of whom one was bedridden) presented the worst living conditions at the Institution. Rooms measuring on average 20m<sup>2</sup> were accommodating six or seven residents, mattresses were filthy and falling apart and most residents were not provided with bed linen or pillows. A pervasive stench of urine and faeces spread through both wards, attracting swarms of flies. Basic furniture such as tables, chairs and sofas were seriously dilapidated and the rooms lacked any personal storage space and decoration. Sanitary facilities at the ward were also found to be in a dreadful state of hygiene and repair with two out of four toilets non-functional and only one serviceable shower available for the 56 residents. Further, there were only 41 beds in the rooms and some residents slept on sofas in the communal dining areas. Some residents were observed by the delegation sitting naked on the floor and eating their meals with their hands; they were not supported or instructed by staff on how to eat hygienically.

In sum, the combination of the poor living conditions and the insufficient staffing levels on the C wards (see paragraph 175) led the CPT's delegation to invoke Article 8, paragraph 5, of the Convention at the end of its visit and to request that concrete steps be taken to refurbish the C wards. By letter of 6 January 2015, the authorities informed the CPT that the Ministry of Labour and Social Policy had launched a public procurement tender for the complete refurbishment of the C wards. **The CPT wishes to reiterate that the conditions in which the residents were held in the C wards could amount to inhuman and degrading treatment and that the refurbishment of these wards should be considered a priority. The CPT would like to receive information (including of a photographic nature) on the refurbishment works at the C wards of the Demir Kapija Special Institution.**

172. The quality and level of food provided to the Institution's residents was satisfactory and was now being distributed in hygienic conditions, with the notable exception of the C wards (see paragraph 171). The Institution's kitchen had recently been renovated and offered satisfactory sanitary conditions. Nevertheless, the delegation observed several mouse traps and found mice faeces in the food store adjacent to the kitchen. **The Committee recommends that steps be taken to remedy this problem without delay.**

173. In terms of activities on offer to residents, these varied according to the different wards. Most of the 125 residents at the "New Object" and the A wards were involved on a daily basis in various workshops (music therapy, clay sculpting, drawing and painting), and were given training in inter-personal skills. Further, they could watch television, assist staff in cleaning, laundry and food distribution tasks and wander freely around the perimeter of the institution during the day. Frequent excursions to various tourist destinations and folklore festivals in Demir Kapija were organised. However, residents from the B and C wards who suffered from the most severe forms of mental retardation were spending their entire days on the ward. With the exception of 11 residents of the C wards they were only offered an occasional walk outside in the establishment's garden. Yet, the CPT's delegation observed that the great majority of residents from the two above-mentioned wards remained inside even when the weather conditions were fine.

**The CPT recommends that the management of the Demir Kapija Special Institution invest more efforts in developing targeted activities for the residents of the B and C wards. Further, all residents, health permitting, should be offered as much access as possible to outdoor exercise.**

d. treatment and staffing

174. The emergency health-care needs of residents were addressed promptly through the attendance of an on-call general practitioner living nearby or the transfer of patients to the nearby hospitals of Kavadarci and Negotin.

However, it still remained the case that the ongoing health-care needs of patients were not adequately met as there was no regularly employed doctor at the establishment and a vacancy issued by the institution had not attracted any applicants. A general practitioner working on contract visited the establishment on average once a week for a couple of hours, examining up to seven residents brought to her attention by nursing staff. There was no systematic screening for transmissible diseases upon admission and the residents' medical status was monitored through an annual blood test. Further, bedridden residents were still not regularly weighed, due in part to the lack of weighing scales and the CPT's delegation observed that some of the 23 bedridden residents had been weighed only once in two years.

A neuro-psychiatrist working on contract visited the establishment on average once every ten days. No dentist had visited the establishment on a regular basis for three years and the existing dental equipment showed visible signs of wear and tear.

175. The number of nursing staff remained adequate with a total of 18 nurses, ensuring an effective presence at the establishment of seven nurses during the morning, three during the afternoon and two during the night and weekend shifts. However, the lack of a full-time general practitioner posed an excessive burden on nurses who lacked adequate medical supervision and were often compelled to take responsibility and decisions outside their remit. Further, the head nurse was also responsible for the pharmacy.

There were 66 orderlies working at the establishment and their presence was in general adequate in the A and B wards and in the "New Object" during the three daily working shifts. That said, on the C wards, only two orderlies were present during the night shift (and four during the day); they were responsible for the supervision of 55 residents who displayed the most challenging and demanding behaviour (see paragraph 171). The CPT's delegation invoked in this respect Article 8, paragraph 5, of the Convention and requested the authorities to reinforce the staffing levels of orderlies on the C wards. No mention was made of the reinforcement of orderly staff level on the C wards in the letter received from the authorities on 6 January 2015.

**The CPT calls upon the authorities to take urgent steps to reinforce the staffing levels of orderlies on the C wards in particular during the night shift.**

176. **The CPT reiterates its recommendation that the authorities take urgent action to ensure that the residents' long-term health-care needs are adequately met. In particular the authorities should ensure that:**

- **one full-time general practitioner is regularly employed at the Institution;**
- **adequate dental care is provided, including preventative/conservative care;**
- **each resident is carefully assessed on admission to the establishment as regards his or her somatic and dental status, and is screened for transmissible diseases;**
- **bedridden residents are regularly weighed with a view to monitoring their nutritional status and, where necessary, prescribing effective nutritional intervention.**

177. As regards training of staff, the nursing staff were receiving both initial and ongoing training at the Faculty of Medicine of Skopje University which appeared to be adequate in terms of resources and curriculum. That said, no training was on offer for orderly staff who spent most of their time with residents; the CPT's delegation was informed that the management of the establishment had recently tried to alert the relevant authorities in the recent past of the need for such training.

**The CPT recommends that the Ministry of Labour and Social Policy take the necessary steps to put in place initial and ongoing training for orderly staff at the Demir Kapija Special Institution.**

178. The CPT was pleased to note that four additional full-time physiotherapists had been recruited since 2010, bringing the total to five. Three physiotherapists worked in a spacious and modern equipped treatment room in the "New Object" which was attended by an average of ten residents per day, while the other two physiotherapists worked with some seven bedridden and semi-mobile residents from the B wards in a second treatment room per day. That said, the physiotherapists told the CPT's delegation that they lacked the supervision of a doctor specialised in rehabilitation who could effectively guide their work in treating bedridden patients and monitor the status of their joints and muscles.

**The CPT recommends that the authorities take the necessary steps to recruit a specialised doctor in physical rehabilitation who could effectively supervise the work of the five physiotherapists at the Demir Kapija Special Institution.**

179. Individual treatment and rehabilitation plans for every resident were now being drawn up and appeared in every personal file. The plans followed a detailed standardised form which included several entries (treatment needs, general and realistic objectives, methods, overview of social risks and regular reviews) that had to be compiled and discussed periodically by a multidisciplinary team. However, the entries remained scant and vague and treatment plans were rarely completed and residents were clearly not involved in their drafting, nor were they informed about their progress. The CPT wishes to stress that in the context of progressive de-institutionalisation it becomes even more crucial to carefully compile and review individual treatment plans according to an in-depth assessment of each resident's medical and mental state. Particular attention should be given to focusing on rehabilitative activities as well as re-socialisation programmes preparing for discharge residents who have the potential to live in the community.

**The CPT recommends that the management of the Demir Kapija Special Institution diligently and carefully draw up individual treatment plans in consultation with the residents concerned.**

180. Medical files reflected the lack of systematic medical supervision and team work by the health-care staff at the Special Institution; in most cases, entries, including those of the visiting neuro-psychiatrist, were scant and limited to diagnosis and treatment without a clear description of the medical status of the residents. In addition to the recruitment of a full-time general practitioner, **the CPT recommends that the necessary steps be taken in order to ensure that patients' files are rigorously maintained and that the entries provide a comprehensive description of the somatic and mental state of the resident.**

181. The distribution of medication to residents was carried out by nurses but the type and dosage of medication was prepared in front of the patient from an open tray of medicines in accordance with the nurses' personal notes or from memory rather than from the official medication charts. Such a modus operandi may well lead to mistakes and should be promptly discontinued.

**The CPT recommends that the preparation of medicines take place in the pharmacy before being distributed to the residents and in accordance with the individual medication charts.**

e. safeguards

182. The legal basis for the accommodation of a resident at the Special Institution remained the decision of the competent social work centre which was valid for one year and could be extended by 12 months on the basis of the semi-annual periodic reports submitted by the director of the establishment.

At the time of the CPT's visit, 85 residents were under guardianship and an additional 50 were deprived of their legal capacity by a court decision but had not yet been assigned a guardian by the respective social work centre. The CPT's delegation was informed that the Ministry of Labour and Social Policy had visited the establishments in July and had conducted an audit of the legal status of the residents of the Special Institution.

**The CPT would like to receive from the authorities updated information on the results of the above-mentioned audit of the legal status of residents and of any action taken with a view to their review.**

183. As regards guardianship, the procedures for the removal of legal capacity are regulated by the 2008 Law on Extrajudicial Procedure. A family member of the person concerned or the relevant social work centre applies to the court for a decision on removal. Two separate opinions by doctors (one of whom must be a psychiatrist) must be submitted to the court, which holds a hearing to decide whether the legal capacity should be removed indefinitely or for a limited time period. The hearing is conducted in the presence of the initiator (family member or social work centre), a temporary guardian appointed by the social work centre and a representative of the social work centre, as well as the person concerned, if his/her state of health allows it.<sup>67</sup> Further to a decision by the court, one of the parties may appeal the ruling within fifteen days.

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<sup>67</sup> In accordance with Section 43 of the Law on Extrajudicial Procedure.

In practice, it appeared that the residents subject to proceedings for the removal of their legal capacity were not heard in person by the court, did not receive a copy of the court decision and were not informed of the possibility to appeal against the court decision. Further, once a person had had their legal capacity removed indefinitely by a court there were no automatic reviews.<sup>68</sup>

**The CPT recommends that the relevant 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;**
- **informed, verbally and in writing, of the possibility and modalities of appealing against a decision to deprive them of their legal capacity.**

**The Committee also reiterates its recommendation to introduce periodical reviews of the court decision on the deprivation of legal capacity of a person in line with Principle 14 of Recommendation Rec(99)4 of the Committee of Ministers of the Council of Europe to member States on Principles concerning the Legal Protection of Incapable Adults.**

184. The CPT's delegation was able to verify that residents whose guardian was a family member were regularly receiving visits whereas there was no physical contact with the resident when the legal guardian was a representative of the social work centre.

**The Ministry of Labour and Social Policy should take the necessary steps in order to ensure that social welfare officers acting as a guardian meet their responsibility and effectively act in the interests of the persons put under their care.**

185. Information on rights was provided orally to the residents or their guardians by the director or the social welfare officer. That said, there was still no brochure or written information available to residents or their guardians. **The CPT reiterates its recommendation that steps should be taken to develop a written information brochure on the rights of residents of the Demir Kapija Special Institution.**

186. As regards monitoring, the Special Institution was regularly visited by the NPM<sup>69</sup> and the national Helsinki Committee which had both produced visit reports with recommendations to the Ministry of Labour and Social Policy.

As regards supervision, in addition to the recent inspection conducted by the Ministry related to the revision of the legal status of residents, the Special Institution was regularly visited on a monthly basis by staff of the Negotin Social Work Centre.

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<sup>68</sup> The court may, upon its own motion or that of the person concerned, a family member, the relevant social work centre, a governmental or non-governmental entity, or the Ombudsman's Institution, examine whether to revoke its decision.

<sup>69</sup> The last two visits by the NPM had taken place in December 2012 and November 2013.

### **3. “Ranka Milanovic” Public Institution for the caring, bringing up and education of children and adolescents, Skopje**

187. The “Ranka Milanovic” Public Institution, located in the eastern outskirts of Skopje, is the only social care establishment at the national level accommodating young persons with socio-behavioural problems, the great majority of whom were under a court order of a duration varying from six months to three years.<sup>70</sup> At the time of the CPT’s visit, the Public Institution was accommodating 20 young persons (14 boys and 6 girls) aged from 14 to 19 years.

188. The CPT’s delegation was able to observe a caring and relaxed attitude on the part of staff towards young persons at the institution and consequently it did not receive any allegations of serious physical ill-treatment of juveniles by staff. That said, two residents told the delegation that one educator resorted, at times, to slaps and verbal abuse towards them if they breached the house rules or clashed with other residents.

**The CPT recommends that the institution’s management remain vigilant and make it clear to staff that all forms of ill-treatment of residents, including verbal abuse, are unacceptable and will be punished accordingly.**

189. Concerning material conditions, female and male adolescents were accommodated separately in spacious and well-lit double rooms equipped with beds, tables, chairs and personal closets. However, the quality of the furniture was poor (i.e. the beds and mattresses were dilapidated and worn and some doors were damaged) and the rooms lacked decoration and visual stimuli. The sanitary facilities in both male and female sections had damaged doors and plumbing installations as well as several non-functioning taps. Further, artificial lighting had not been functional in several rooms and the sanitary facilities for at least two months.

**The CPT recommends that the authorities take urgent steps to replace beds and mattresses in all rooms and repair damaged doors and water taps in the sanitary facilities. Further, efforts should be made to treat regular structural maintenance at the Institution as a priority, notably as concerns artificial lighting.**

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<sup>70</sup> Juveniles could also be placed at the Public Institution upon a decision of the competent social work centre with the consent of the parents or following the removal of parental rights. In such a case, the maximum duration of placement amounted to ten years. Two out of a total of twenty juveniles had been placed at the Public Institution upon a decision of the social work centre.

190. As regards activities and rehabilitation programmes on offer to the resident population, regular secondary school classes were organised in the mornings on site and were supplemented by an English language course twice a week. Further, individual and group therapy sessions were on offer at the institution due to the efforts of the psychologist. A detailed individual treatment plan for each resident was drawn up upon admission and periodically reviewed by a multi-disciplinary team composed of a social welfare officer, a psychologist and a pedagogue. That said, the offer of sports activities was limited and consisted of a periodic visit to a poorly equipped gym as the existing football and basketball pitches were not functional. In addition, no occupational or vocational activities were available to the juveniles. The management of the establishment had, in fact, planned to introduce gardening, hairdressing, woodwork and car washing workshops but had failed to obtain the necessary funding. As a result, juveniles spent their spare time either in a computer room (with no internet connection) or watching television. Given the particular background and reasons for placement (e.g. offending behaviour) of many juveniles in the institution, their participation in vocational training and workshops would provide them with skills which would assist them when they returned to life in the community.

**The CPT recommends that the authorities seriously consider the plans outlined by the management of the Public Institution “Ranka Milanovic” to enlarge the offer of vocational and recreational activities for the resident population.**

191. The health-care needs of the resident population were met by referral to an on-call general practitioner or to a civil hospital in case of emergency. No resident was on drug substitution therapy but periodic searches of rooms were organised in order to prevent drug consumption. Further, no resident was on psychotropic medication. The CPT’s delegation could not find any medical documentation of residents at the institution and was told that no specific medical examinations, including screening for transmissible diseases, were conducted upon their admission. In the CPT’s view, each resident should have a personal and confidential file containing diagnostic information, as well as an ongoing record of the resident’s mental and somatic state of health and of his/her treatment. Further, any newly admitted resident should undergo a comprehensive medical examination upon admission including a screening for transmissible diseases and should receive health education on transmissible diseases as part of a preventive health-care programme.

**The Committee recommends that the national authorities comply with the above-mentioned precepts.**

192. Registers and personal files of residents were diligently kept and included all relevant documentation such as placement orders, psychological tests, weekly monitoring charts, minutes of psychological support sessions and periodic reports to the social work centres.



**APPENDIX**

**LIST OF THE NATIONAL AUTHORITIES AND ORGANISATIONS  
MET BY THE CPT'S DELEGATION**

**A. National authorities**

**Ministry of Foreign Affairs**

Olgica VASILEVSKA	Head of the Council of Europe and OSCE Unit
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**Ministry of Health**

Mikica PANOVA	Head of Secondary Care Sector
Sasho DIMITROVSKI	Secondary Care Sector
Snežana NAJDOVSKA	Director of Demir Hisar Psychiatric Hospital
Petar KANGOV	Director of Negorci Psychiatric Hospital
Idriz NEXKIPI	Director of Skopje Psychiatric Hospital

**Ministry of Interior**

Gordana JANKULOVSKA	Minister
Petar SAREVSKI	Director of the Reception Centre for Foreigners in Skopje

**Ministry of Justice**

Adnan JASHARI	Minister
Lidija GAVRILOSKA	Director of the Directorate for Execution of Sanctions

**Ministry of Labour and Social Policy**

Dime SPASOV	Minister
Dušan TOPIĆ	Counsellor, Department of Social Protection

**Other authorities**

Ixhet MEMETI	Ombudsman
Anica TOMŠIĆ STOIKOVSKA	Counsellor for the Prevention of Torture

**B. Non-governmental organisations**

Helsinki Committee  
Poraka (Centre for the Support of Persons with Mental Disabilities)