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## **Response**

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

**from 31 May to 7 June 2017**

The Government of Serbia has requested the publication of this response. The CPT's report on the May/June 2017 visit to Serbia is set out in document CPT/Inf (2018) 21.

Strasbourg, 21 June 2018

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**Answers and comments of the competent authorities of the Republic of Serbia to the Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its ad hoc visit to the Republic of Serbia conducted in the period from 31 May to 7 June 2017**

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

**15.** In line with the European Committee's recommendation to "conduct effective investigations into allegations of ill-treatment to demonstrate that criminal acts by the police will be punished", we inform you that the Internal Control Sector (hereinafter referred to as: SUKP) in order to implement the activities 3.1.1.8. and 3.3.1.24. "Development of a methodology for the prosecution and the police to investigate cases of ill-treatment and torture in order to conduct effective investigations into allegations of ill-treatment and torture by the police" under the Action plan for Chapter 23, took part in a working group established by the Republic Public Prosecutor's Office which is tasked to develop the mentioned methodology. The OSCE Mission to the Republic of Serbia provided expert support in implementing these activities. The aim of the methodology was to clearly define the manner in which the prosecution and the police will act in order to conduct effective investigations into cases of ill-treatment by the police and to ensure the independence and impartiality of investigations. The Republic Public Prosecutor's Office adopted the methodology in the form of a binding instruction for prosecutors, and the Ministry of the Interior passed on 18 October 2017 an Instruction on methodology for investigating cases of ill-treatment by the police.

Pursuant to the mentioned Instruction, the public prosecutor is responsible for conducting an investigation into cases of ill-treatment. Exceptionally, the public prosecutor can entrust the SUKP to conduct some evidence collection actions and in that case the public prosecutor is obliged to effectively undertake actions which he is authorized, for timely and efficient actions of the SUKP. The public prosecutor collects information on his own or through the SUKP, which does not exclude the possibility of using the documentation originating from the police.

The Instruction emphasizes the need for an investigation to be independent and the public prosecutor and police officers of the SUKP participating in the investigation to be independent and impartial in relation to persons whose actions are the subject of the investigation. The public prosecutor is obliged to independently, impartially, urgently and efficiently take all evidence collection actions and measures that enable him to collect and secure evidence of the alleged case of ill-treatment. It points out the need to urgently provide with evidence the collection of which can later be precluded or significantly hampered (photographs of injuries, medical documents, the means used during ill-treatment, photographs and traces from the area where the incident occurred, statements of the accused, witnesses and the injured party and all other available documentation) and to provide, without delay, presence of the police officer accused of ill-treatment and witnesses.

**23.** With regard to the Committee's recommendation to "reinforce the staffing of the SUKP by filling all vacant positions notably as regards the division charged with criminal investigations", we note that there is a technical error made in the Report, as at the moment of the visit of the Committee the number of employees was 85 out of 88 budgeted positions, and at the meeting with the members of the Committee it was stated that before the rationalization in the Ministry of the Interior the number of proposed positions in the SUKP was 127. The

Ministry of the Interior is currently carrying out activities to develop a new job classification in the Ministry of the Interior, which will provide for an increase in the number of employees in the SUKP for 40, thus making the total number of budgeted positions 125. Until the new job classification is adopted, the problem with the number of internal control investigators is solved by temporary transfer and assignment of employees from other organizational units to the SUKP. The SUKP is currently staffed by 107 employees (81 are permanently assigned, while 18 are employees on temporary transfer and eight are assigned to the SUKP from other organizational units).

With regard to the Committee's recommendation "to enhance the investigative capabilities of the SUKP through the possibility to order forensic medical examinations of the injured party and resort to audio and video devices for the collection of evidence", and that "SUKP investigators should be properly trained and the SUKP sufficiently resourced to carry out effective investigations into cases of alleged torture and ill-treatment in a timely and thorough manner", we note that in 2018 the SUKP will, in cooperation with the OSCE Mission to the Republic of Serbia, conduct training courses for SUKP police officers with the aim of implementing the Instruction on methodology for conducting investigations into cases of ill-treatment by the police. In addition, under IPA 2015 program, the SUKP will start implementing a twining project worth EUR 1,000,000 in 2018. The project will include training for SUKP police officers for conducting special evidence collection actions, new preventive institutes in combating corruption and strengthening investigative capabilities of SUKP investigators. The plan is to procure IT equipment, as well as audio and video equipment for conducting special evidence collection actions for the needs of the SUKP in the amount of EUR 750,000.

The Ministry of the Interior is currently implementing the Action "Enhancing human rights protection for detained and sentenced persons in Serbia" as part of the joint program of the European Union and the Council of Europe titled "Horizontal Facility for the Western Balkans and Turkey". In line with the minister's approval, the competent organizational unit for the Action implementation is the Police Directorate, with the Human Resources Sector and the SUKP also taking part in the Action.

The Action implementation started early 2017, and it includes following activities to be implemented:

- to analyze the existing legal framework and operational procedures of the Ministry of the Interior for treatment of police officers towards persons deprived of their liberty with focus on safeguards against ill-treatment with recommendations;
- to analyze the existing training curricula in this area in order to improve the existing curricula and educate existing trainers, with a comparative overview of best practice in the CoE Member States;
- to review existing complaint procedure in the Ministry of the Interior notably for reporting ill-treatment;
- to revise existing external control mechanisms with a comparative overview of best practice in the CoE Member States;
- to review information provided to persons deprived of their liberty and to review existing practice.

In 2017, the SUKP took part in meetings with Council of Europe experts with the aim to analyze the existing legal framework and operational procedures of the Ministry of the Interior to be followed for treatment of persons deprived of their liberty, as well as to analyze the curricula related to the prevention of ill-treatment by the police. In October 2017, three representatives of the SUKP took part in a roundtable discussion on the improvement of the internal control mechanism with a comparative overview of best practice in the Member States of the European Union and the Council of Europe, which was organized as part of the project.

After the procedure for drafting the Law amending the Police Law started in May 2017, drafting of all bylaws based on the Police Law, including the Proposed Rulebook on the manner of application of police powers and the Proposed Rulebook on the conditions to be met by detention cells, stopped partly due to the modification of some legal solutions, and partly due to the impossibility of allocating funds necessary for the adaptation of detention cells by the competent internal organizational unit. However, as the Government of the Republic of Serbia determined the Bill on Amendments to the Police Law on 9 November 2017, the adoption of which is expected in March 2018, re-start of the procedure for adopting these rulebooks is planned as soon as possible.

**43.** Regarding the points made by the Committee to be updated on the steps taken to renovate the detention cells at Stari Grad Police Station, we point out that the Ministry of the Interior, the Material and Financial Affairs Sector, last year conducted a public procurement procedure “Rehabilitation and adaptation of detention cells in the district police stations of the MoI”, on the basis of which a contract was signed on 19 February, 2018, covering seven locations in the territory of the Republic of Serbia: Kragujevac District Police Station, Batočina Police Station, Sremska Mitrovica Police Station, Irig Police Station, Indjija Police Station, Subotica District Police Station, Belgrade District Police Station - Stari Grad Police Station. The contract is currently being implemented.

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

We thank the CPT delegation on the recommendations provided to us with the aim of improving the system of enforcement of criminal sanctions in the Republic of Serbia.

In relation to the comments and recommendations provided by the CPT, we deliver the following response:

The Development Strategy for the System of Enforcement of Criminal Sanctions in the RS until 2020 and the Action Plan for the implementation of the Strategy defined the main challenges in the work of the Administration until 2020 and specified priority activities and measures that the Administration for the Enforcement of Criminal Sanctions will implement, in cooperation with other authorities, to achieve the following priorities: addressing prison overcrowding, improving material conditions in prisons and the position of convicted persons, respecting human rights, health care, establishing new programs of treatment, training and vocational training for convicted prisoners, special programs for particularly sensitive categories, introducing modern information and security systems, more efficient post-penal inclusion, enforcing alternative measures and sanctions to a larger extent, improving training and professional training of employees, as well as improving the work of internal supervision over the work of institutions.

**32.** With regard to the CPT's request to receive information on the steps taken to comply with the Constitutional Court decision in the case of convicted M.J., in terms of carrying out an effective investigation into what happened at Požarevac Penal Correctional Institution - Zabela on 24 December 2011, we inform you that the Basic prosecutor's office in Požarevac sent a request to the Požarevac District Police Station to collect additional information from the institution staff in order to fully determine the facts.

**45.** As the experience from previous years showed, monitoring the number of persons deprived of liberty and timely response to the prevention of prison overcrowding must be a permanent task of the Ministry of Justice - the Administration for the Enforcement of Criminal Sanctions.

The new Strategy for Reducing Overcrowding in Institutions for Enforcement of Criminal Sanctions in the Republic of Serbia until 2020 and its Action Plan, which the RS Government adopted in May 2017 ("RS Official Gazette", no.43/2017), proposes measures and activities, which will allow to completely address the issue of overcrowding. The Strategy prescribes the following measures: to pronounce more decisions on measures for securing appearance of the accused other than remand measure (primarily house arrest and bail); to more efficiently implement treatment programs for advancing of prisoners in treatment and more successful inclusion in the community; to further develop the system of alternative sanctions and trustee service; to more widely apply conditional release; to build new accommodation capacities and improve conditions in existing ones.

The Administration for the Enforcement of Criminal Sanctions continuously works to improve conditions of accommodation and to increase capacities in institutions. We will point out the most significant investments in 2017. Construction of two new prisons, for which the funds were provided from the Council of Europe Development Bank loan. Construction of a new prison in Pančevo with the capacity to accommodate 500 persons deprived of liberty began in May 2016, and the proposed time for completion is the first half of 2018. The construction of a new prison in Kragujevac, with the capacity to accommodate 400 persons deprived of liberty, is planned to begin in 2018.

Works to completely reconstruct accommodation capacities and to build a new facility at the Požarevac Penal Correctional Facility for Women started in the second quarter of 2017,.

Reconstruction of one accommodation block in both the Belgrade District Prison and the Special Prison Hospital in Belgrade has been completed. Completed reconstruction of the block for enforcement of security measure of the compulsory treatment of drug addicts meant the end of the complete reconstruction of the Special Prison Hospital, while the reconstruction of accommodation units in the Belgrade District Prison will continue as per established schedule, and the end of complete reconstruction of this prison is planned for 2020. In the Juvenile Educational Correctional Institution in Krusevac, the renovation of open and closed departments has been completed; in the Juvenile Penal Correctional Institution in Valjevo the renovation of one facility for accommodation of persons deprived of their liberty has been completed ("School"); in Niš Penal Correctional Institution, D pavilion for accommodation of convicted persons has been renovated and a new admission department for convicted persons, duty service and visitors room has been built, and in Sremska Mitrovica Penal

Correctional Institution the reconstruction of entire hospital building "Clinic" has been completed. In Požarevac Penal Correctional Institution - Zabela, one pavilion for accommodation of persons deprived of liberty is being reconstructed.

A tendering procedure is currently being conducted to select the most favorable tenderer for the construction of a new pavilion at the Požarevac Penal Correctional Institution -Zabela with the capacity to accommodate 216 convicted persons, and for the construction of new pavilions at the Sremska Mitrovica Penal Correctional Institution with the capacity to accommodate 320 convicted persons. The contractor has been selected for Leskovac District Prison for accommodation of 200 convicted persons.

It is important to note that, in addition to the construction of new capacities, reduced number of remanded prisoners, increased number of decisions granting conditional release of convicted persons and increased number of pronounced alternative sanctions helped in solving the issue of overcrowding

The trend of reducing the number of remanded prisoners has been achieved by more restrictive pronouncement of remand measure by the court and by pronouncement of other measures to ensure the presence of the accused, as an alternative to remand measure (primarily house arrest). In mid-2010, the percentage of remanded persons reached 30% of the total number of persons deprived of their liberty. However, since 2012, the percentage of remanded persons has been declining on an annual basis, so in 2012 it was 24.7%, in 2013 it was 18.5%, at the end of 2014, a further decline was recorded at 15.49%, at the end of 2015 - 15.29%, at the end of 2016 - 16.2%, while at the end of 2017, the percentage of remanded persons dropped to 14.6%.

In the period from 2012 to 2017, an increase in conditional release decisions was recorded. In 2012, 600 persons were granted conditional release, which makes 8.14% of the total percentage of those who were released from serving a prison sentence, while in 2017, 1561 convicted persons were granted conditional release, which makes 26.7% of the total percentage of those who were released.

In addition, the number of pronounced alternative sanctions and measures significantly rose in 2017. In 2015, the Administration was delivered 3252 decisions to be enforced, in 2016, 4010, and in 2017 4,600 decisions on pronounced alternative measures and sanctions were delivered.

In order to implement the activities provided for in the Development Strategy for the System of Enforcement of Criminal Sanctions until 2020, related to the treatment of convicted persons and the improvement of training of employees in institutions, a working group was formed consisting of employees of the treatment services in institutions and experts of the Council of Europe, which, on the basis of an analysis of the current state in the field of treatment, began to develop two new specialized treatment programs. Also, as part of EU Twinning Project "Improving Capacities within the Prison System in the RS", a training needs analysis for prison staff was performed and a plan for developing specialized treatment programs at a later stage of the project was prepared (motivational interviews, cognitive self-promotion, program for addicts, program for perpetrators of criminal offences against sexual freedom and programs for particularly vulnerable categories of convicted persons, such as juveniles). Workshops for employees in the treatment service and security service are being

conducted. As part of this project, training for trainers in all services in institutions will also be carried out, and in particular, we mention training for employees in the treatment service as per the aforementioned specialized programs, in the health service for the implementation of the Istanbul Protocol, in the security service for treatment of persons deprived of liberty, as well as in training and employment service.

The Administration for the Enforcement of Criminal Sanctions signed a cooperation agreement with the "Help" organization financed by the German Government in order to increase the employment of convicted persons, based on which production equipment was purchased for Sremska Mitrovica Penal Correctional Institution, Niš Correctional Institution, Juvenile Correctional Institution in Valjevo and Educational Correctional institution in Krusevac. As part of this project, convicted persons will be trained for work and equipment which will be used by these persons for employment after having served the sentence will be procured. Also, under this project, it will be continued to expand cooperation in other prisons, considering the positive assessment of the so far implemented activities.

Cooperation with the ministry responsible for education has been established, which enables convicted persons to effectively implement the program of Functional elementary education of adult convicts serving a prison sentence.

With the aim of introducing a larger number of activities for convicted persons in institutions, the percentage of engaged persons has been increased, as well as the number of persons attending training for certain occupations or education.

In relation to the CPT's statement that it is essential to introduce fundamental changes to the current concept of remand detention, we inform you that the proposed changes in treatment of detainees will be considered within the legislative activities of the Ministry of Justice, since they require amendments to the Criminal Procedure Code.

**49.** In relation to the points made by the Committee indicating overcrowding and bad conditions of accommodation in institutions, the Administration for the Enforcement of Criminal Sanctions carries out measures and activities prescribed by the Strategy for Reducing Overcrowding in Institutions for Enforcement of Criminal Sanctions in the Republic of Serbia until 2020 and the Action Plan for which the funds from the budget have been planned, and include the improvement of conditions and the construction of new capacities in the following correctional institutions:

- Reconstruction of capacities and construction of a new pavilion in Požarevac Penal Correctional Institution for Women;
- Construction of a new prison complex in Pančevo to accommodate 500 persons deprived of their liberty;
- Construction of a new prison complex in Kragujevac to accommodate 400 persons deprived of their liberty;
- Construction of a new admission facility in Niš Penal Correctional Institution with related or supporting facilities;
- Reconstruction of capacities at Belgrade District Prison;
- Reconstruction of capacities at Special Prison Hospital in Belgrade;
- Construction and reconstruction of capacities at Požarevac Penal Correctional Institution-Zabela;

- Construction and reconstruction of capacities at Sremska Mitrovica Penal Correctional Institution;
- Construction of a new facility at Leskovac District Prison.

All activities prescribed by the Strategy are at the implementation stage and they are described in more detail in section 45, except for the construction of a new admission facility in Niš with supporting facilities and reconstruction of the Special Prison Hospital, which have been completed.

Please find enclosed the data on the capacities of remand sections at all institutions for the enforcement of criminal sanctions, in line with the required criteria.

**50.** In relation to the Committee's recommendation that the comprehensive regime of out-of-cell activities for remand prisoners be implemented in correctional institutions, we would like to inform you about the following:

The Administration for the Enforcement of Criminal Sanctions will undertake measures to ensure at least 2 hours of outdoor time a day, to provide exercise yards with fitness/sports equipment, at correctional institutions in which architectural conditions and capacities allow it, as well as to introduce opportunities for greater level of work engagement of remand prisoners.

The following activities to improve the treatment of remand prisoners have been undertaken in the visited correctional institutions:

2 hours of outdoor time have been ensured for remand prisoners at Niš Penal Correctional Institution and Pirot pre-trial detention unit; benches with the shelter from the rain and sun and fitness/sports equipment have been placed in the exercise yard of remand prisoners at Niš Penal Correctional Institution; Niš Penal Correctional Institution has taken measures regarding work engagement of remand prisoners by classifying a "working group in the Pre-trial Detention Unit".

2 hours of outdoor time a day have been ensured for all remand prisoners at Novi Sad District Prison. One of the exercise yards has been provided with a piece of fitness/sports equipment, while the construction of fitness/sports equipment for the remaining three exercise yards is underway.

One exercise yard at Čuprija Penal Correctional Institution is equipped with fitness/sports equipment, while the equipment for the remaining two exercise yards will be constructed and placed in the yard in the coming period.

2 hours of outdoor time a day have been ensured for all remand prisoners at Vranje District Prison, which time is used by the remand prisoners for walking, exercising or sitting outdoors.

2 hours of outdoor time a day have been ensured for remand prisoners at Leskovac District Prison. The exercise yard is equipped with basketball hoops and benches, and procurement of tables for table tennis and fitness/sports equipment has been planned.

The exercise yard at Prokuplje District Prison has been adapted to allow for engaging in several sports activities due to requests to that effect made in the last two years.

2 hours of outdoor time a day have been ensured for all remand prisoners at Pančevo District Prison. A comprehensive regime of out-of-cell activities for remand prisoners will be implemented at the new facility of Pančevo Penal Correctional Institution. The new facility will be provided with both outdoor and indoor fitness/sports equipment, and the exercise yard shall be equipped with shelters from the rain or sun.

Please note that the right to 2 hours of outdoor time a day for all persons deprived of their liberty has been exercised at Belgrade District Prison for several years back, and that two exercise yards with basketball hoops and fitness/sports equipment are intended for the exercise of this right.

**51.** Information concerning the two juveniles held on remand at Novi Sad District Prison at the time of the Committee's visit: D.N. was held on remand from 21 April 2017 to 20 June 2017, while U. U. was held on remand from 29 October 2016 to 29 June 2017. They were not offered educational or recreational activities.

In addition, concerning the recommendation on the education of juveniles held on remand, please note that education and vocational training are organized for juveniles immediately after sending them to the specialized institutions for minors, and that measures will be taken to include minors in education while they are held on remand.

**52.** Regarding the recommendation concerning female remand prisoners, we would like to inform you that, pursuant to Article 240 of the LECS (Law on Enforcement of Criminal Sanctions), support and assistance are to be provided to the service for the treatment of remand prisoners. In accordance with the aforementioned, correctional institutions will provide access to a psychologist to remand prisoners that is more frequent.

**54.** In relation to the recommendations concerning the amelioration of conditions of detention in the remand sections of the visited correctional institutions, we would like to inform you of the following:

It is not possible to remove the metal grilles on windows for security reasons at Niš Penal Correctional Institution (metal grilles have been placed on windows to prevent persons deprived of their liberty to break out of the prison and a metal mesh to prevent introduction of things whose keeping is prohibited), poor artificial lighting, as well as the wall damage in the hall of Pavilion II shall be repaired in line with the annual plan of the Construction and Electricity Affairs Section in February and March, cell walls are being repainted at regular intervals, poor artificial lighting at Pirot pre-trial detention unit shall be repaired soon, natural light in rooms to the right of the entrance is very poor because additional frosted glass, which has been installed due to the vicinity of a residential building, cannot be removed for security reasons. Full partitioning of sanitary annexes can be done in larger rooms (by erecting a partition wall to the ceiling and mounting a door at the entrance to the sanitary annex), which will be carried out in accordance with the developed plan. Regarding the shelter from the rain or sun at the exercise yard at Pirot pre-trial detention unit, the said shelter shall be mounted on the part of the fence of the exercise yard towards the kitchen so that it is in the visual field of the service on duty.

The tendering process for the selection of the most favorable bidder for the reconstruction of Block 2.2 of Belgrade District Prison is under way. The completion of the reconstruction in line with international standards is planned for October 2018.

In order to improve the conditions of remand at Vranje District Prison, the wooden tile flooring was replaced with new ceramic tile flooring during the year, and every cell in the remand section is provided, inter alia, with a toilet, a shower with hot water, and a TV set with cable TV. In order to increase the capacities of the remand section at Vranje District Prison, two more remand prisoners' dormitories were rebuilt, thus ensuring the statutory minimum of eight cubic meters and four square meters of space per every remand prisoner, exclusive of the area of the sanitary facility located in each room - dormitory, as well as a separate bed for each person.

Cells at Novi Sad District Prison were affected by extreme heat and extremely high levels of humidity at the time of the Committee's visit, therefore the persons accommodated in them have been provided with fans. Lighting has been repaired. The furniture is being repaired and replaced.

In the second half of 2017, conditions of detention were significantly improved at Prokuplje District Prison, since windows were replaced in all pavilions of the institution, all rooms were repainted, and the reconstruction of the heating system was completed.

Sanitary installations are in good state of repair, and tile flooring in sanitary annexes shall be replaced where necessary at Čuprija Penal Correctional Institution.

At Leskovac District Prison, the whole remand section has been repainted, and the sanitary facilities and bathrooms have been refurbished. The plan is to install ventilation in each cell to avoid condensation and a high level of humidity. The 2018 reconstruction plan also envisages construction or replacement of worn out windows and doors, to provide sufficient natural light in the cells, and the construction of shelters from the rain or sun in the exercise yard.

In relation to the points made by the Committee concerning material conditions at Pančevo District Prison, we would like to note that works on the new prison in Pančevo are to be completed in the first half of 2018 and that conditions in this correctional institution will be in line with European standards. The exercise yard of the new facility will be provided with shelters from the rain or sun and the fitness/sports equipment. Minimum 4m<sup>2</sup>, exclusive of the sanitary facility, will be available to all remand prisoners, and maximum two persons will be accommodated at one cell.

**55.** Persons under police detention for up to 48 hours held in the remand section of correctional institutions are not accommodated together with remand prisoners. Persons under police detention for up to 48 hours are placed in separate cells and have the possibility of outdoor exercise without the presence of remand prisoners. District police stations are in charge of ensuring medical examination for persons under police detention for up to 48 hours and of informing them of their rights.

The premises for accommodating persons under police detention for up to 48 hours have been refurbished and repainted at Leskovac District Prison, while floors in detention cells at Prokuplje District Prison will be refurbished in 2018.

**56.** The Administration for the Enforcement of Criminal Sanctions has been, in accordance with the Development Strategy for the System of Enforcement of Criminal Sanctions in the Republic of Serbia until 2020 and the Action Plan, implementing measures and activities aimed at improving health-care services in prisons. Reconstructions and

adaptations of a part of the space intended for providing health-care services and correctional institutions and complete reconstruction of the Special Prison Hospital in Belgrade have been completed. In 2016, centralized procurement of medicines was introduced and a centralized procurement of medical equipment for all correctional institutions and the Special Prison Hospital was conducted in accordance with the expressed needs. Trainings for health professionals from the system of enforcement of criminal sanctions are organized at regular intervals and the number of medical staff is being increased in line with available funding.

In line with its statutory liabilities, the Ministry of Health of the Republic of Serbia conducts regular and extraordinary health-care surveillance over the professional work of health-care services at penal correctional institutions and the Special Prison Hospital. The Ministry of Health issues recommendations and orders to the Administration for the Enforcement of Criminal Sanctions if it finds irregularities while visiting and supervising the work of health-care services in correctional institutions. So far, cooperation with the line ministry of health has been successful in the field of treatment of persons deprived of their liberty in specialist health-care institutions within the Ministry of Health. As for the correctional institutions visited by the representatives of the Committee, the Ministry of Health carried out inspections at Čuprija Penal Correctional Institution, Niš Penal Correctional Institution, Prokuplje District Prison, Pančevo District Prison and the Special Prison Hospital in Belgrade, in 2017.

In relation to the Committee's question about the transfer of responsibility over health-care services in prisons from the Ministry of Justice to the Ministry of Health, we would like to inform you that the analysis of this issue, supported by the OSCE Mission to Serbia, has been conducted by a professor at the Medical Faculty in Belgrade and a consultant of the Protector of Citizens and the National Preventive Mechanism. The said analysis has concluded that, basically, the health-care services provided in the penal correctional institutions correspond to primary health-care services, and include mainly the services provided by general practitioners, psychiatrists, dentists, internal medicine specialists and laboratory diagnostics. The services provided by other specialists are available at certain correctional institutions. The Special Prison Hospital in Belgrade is a part of the system of institutions for the enforcement of criminal sanctions. The Hospital provides outpatient and stationary treatment services. It, basically, corresponds to a secondary health-care institution and its structure is closest to the structure of a general hospital, although it lacks some of its features. Certain types of health-care and almost entire emergency care (outpatient and stationary), urgent surgical care, modern diagnostics (CT, MRI, functional tests, etc.) as well as the treatment of all diseases or injuries whose nature exceeds the professional and/or material conditions at the Special Prison Hospital, including maternity health-care services, are provided exclusively outside the institutions for the enforcement of criminal sanctions by the network of secondary or tertiary health-care organizations of the Ministry of Health or, very rarely, by private practice.

In view of all of the foregoing, especially in view of the current situation in the field of health-care in institutions for the enforcement of criminal sanctions in the Republic of Serbia, the conclusion of the above analysis is that measures for improving health-care in institutions for the enforcement of criminal sanctions can be implemented in two ways:

1. without transferring responsibility over health-care services from the Ministry of Justice
2. By transferring responsibility over health-care services from the Ministry of Justice to the Ministry of Health.

Considering the said analysis of the health-care system in prisons, in the Administration for the Enforcement of Criminal Sanctions, measures and activities to improve health-care Sanctions are currently being implemented within the Ministry of Justice - Administration for the Enforcement of Criminal Sanctions, in cooperation with the Ministry of Health.

The Ministry of Justice - Administration for the Enforcement of Criminal Sanctions, in cooperation with the Ministry of Health, will continue to implement the measures and activities prescribed by the Development Strategy for the System of Enforcement of Criminal Sanctions in the Republic of Serbia until 2020, with the aim of further development of the provision of health-care services in prisons, in particular, the protection of mental health of persons deprived of their liberty. The Council of Europe is implementing the project "Strengthening the Protection of Persons Deprived of Their Liberty", within which the Administration for the Enforcement of Criminal Sanctions, with the assistance of the experts of the Council of Europe, will continue to develop health protocols in prisons, as well as programs for treatment and handling of persons deprived of their liberty with mental disorders in cooperation with the Ministry of Health. By the end of 2018, the Ministry of Health will have developed the Draft Mental Health Strategy with the Action Plan, which will include the prison system.

**57.** In relation to the recommendation of the Committee that all medical examinations of newly arrived prisoners be conducted in accordance with Article 12 of the Rulebook on the Execution of Remand Measure, we would like to inform you that roundtables on the first examination, record keeping and medical examination following the use of coercive measures have been organized within the Council of Europe's project "Strengthening the Protection of Persons Deprived of Their Liberty". The roundtables have been attended by health-care professionals from all correctional institutions, doctors engaged from health-care institutions within the Ministry of Health and a Council of Europe's expert. Based on the needs expressed by the staff of the correctional institutions, the working group was established to align treatment in correctional institutions, with the support of the Council of Europe Office in Belgrade, by creating uniform forms and records for medical examinations of persons deprived of their liberty, based on the provisions of the Law on Enforcement of Criminal Sanction, the Rulebook on the Execution of Remand Detention and the standards of the medical profession.

**58, 59.** As part of the activities referred to in section 57, the Administration's working group shall draw up unique records for all prisons, of the recording of injuries and issuing medical reports upon the first examination and admission to prison, as well as after the use of coercive measures, in accordance with the Committee's recommendation and Article 144 (4) of the Law on the Execution of Criminal Sanctions.

**60, 61.** Standards of medical examinations after the use of coercive measures, recording of injuries, doctor's opinion on causal link between convicted person's statements and objective medical findings and notifying the competent prosecutor's office of cases of ill-treatment of persons deprived of their liberty have been transferred to prison administrations as a binding instruction and will be subject of regular and extraordinary inspections of institutions.

In order to improve the health-care services in institutions, within the EU funded twinning project "Improving Capacities and Capabilities within the Prison System in the Republic of Serbia", as well as the training programs at the Centre for Professional Education and

Training of the Administration for the Execution of Criminal Sanctions, special attention is given to training of employees for the implementation of the Istanbul Protocol. The plan is to organize training courses for trainers (doctors employed in institutions) in 2018, allowing this type of education to become the integral part of the Training Centre programs.

**62.** All institutions are aware that medical examinations must be carried out in the presence of medical personnel only, and that non-medical staff can attend the examination only exceptionally, upon the explicit request of the doctor, with the obligation to record the facts justifying the reason for such a decision.

**63.** Regarding the Committee's statements related to the provision of assistance to persons deprived of their liberty with drug-related problems, we inform you that the development of a new National Strategy has begun and that the doctors employed in the Special Prison Hospital are involved in this working group.

The Administration for the Execution of Criminal Sanctions has formed a working group comprised of employees in the treatment service in institutions that will, with the assistance of the experts of the Council of Europe within the project "Strengthening the Protection of Persons Deprived of Their Liberty", draw up a specialized treatment program for the convicts with drug-related problems.

**64.** Regarding the CPT's remark on understaffed remand sections, we inform you that after six months of training, which takes place partly at the institution, and partly in the Staff Training and Professional Development Centre of the Administration, and after passing the exam for the position of a commander in the security service, 143 persons were employed, who were assigned to work in the following institutions:

**PCI BELGRADE - 21**

**PCI ĆUPRIJA- 5**

**PCI POŽAREVAC-ZABELA- 30**

**DP NOVI SAD- 38**

**PCI ŠABAC- 6**

**PCI SREMSKA MITROVICA- 10**

**DP KRAGUJEVAC- 10**

**DP UŽICE- 5**

**DP NOVI PAZAR- 9**

**PCI SOMBOR- 8**

**EDUCATIONAL CORRECTIONAL INSTITUTION IN KRUŠEVAC - 1**

In addition to the number of new employees, 11 members of the security service from other institutions were permanently transferred to the PCI Niš.

The program of the exam taken by the newly recruited security officers in order to gain the title of a commander consists of:

#### 1. PRACTICAL EXAM

- PRACTICAL TRAINING IN HANDLING WEAPONS AND CHEMICALS;
- PRACTICAL TRAINING IN USING COERCION AND MARTIAL ARTS

#### 2. ORAL EXAM

- CONSTITUTIONAL SETTLEMENT (includes the issue of human rights and the protection of rights)
- STATE ADMINISTRATION SYSTEM WITH LABOUR RELATIONS
- REGULATIONS ON THE SECURITY SERVICE OPERATIONS
- EXECUTION OF CRIMINAL SANCTIONS SYSTEM
- PSYCHOLOGY OF PERSONALITY WITH PSYCHOPATHOLOGY

**65.** The CPT's recommendations regarding stopping carrying truncheons in pre-trial detention areas have been forwarded to the administrations of all institutions.

**66.** Regarding the CPT's statements concerning visits to remand prisoners, we inform you that the visits to remand prisoners in the institutions visited by the CPT's representatives, are arranged in accordance with the provisions of the Rulebook on Remand Detention Measure, three to four visits of one hour every month, while in the Novi Sad District Prison, depending on the number of remand prisoners, four to five visits every month are allowed, but lasting only 30 minutes. At Leskovac District Prison, the metal net was removed in the visitors' room and there are chairs for remand prisoners and visitors.

### **Response of the High Court Council to paragraph 30 of the Report of the European Committee for the Prevention of Torture**

Regarding paragraph 30 of the Report the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, in which the CPT recommends that judges should be aware of the precepts regarding torture and other forms of ill-treatment when adjudicating cases, we note that the High Court Council understands the recommendations and efforts of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment regarding pronouncement of adequate penalties in the cases of ill-treatment.

In connection with the above, the High Court Council points out that, as the CPT's report also noted, judicial authorities in the Republic of Serbia are independent, and hence free to fix, within the parameters set by law, the sentence in any given case. Also, we note that we consider that the intention of the legislator is clear, and that, taking into account the prescribed sanctions for the crimes referred to in Art. 136 and Art. 137 of the Criminal Code (CC), an unequivocal and firm stand has been taken regarding the incrimination of torture and ill-treatment, as well as other forms of inadequate treatment, with the intention to extort a confession from an accused, a witness, an expert witness or other person.

We also inform you that a four days' lecture and discussion is planned within the theme 3 (the Council of Europe and the European Convention on Human Rights), Chapter V (Professional Knowledge and Skills, the EU Law and International Standards) of the Judicial Academy's Initial Training Program for Judges.

The Judicial Academy's Continuing Training Program for Judges established that Chapter IX is dedicated to the Continuing Training Program on the European Convention on Human Rights and Fundamental Freedoms through the following teaching methods: lectures with presentations; working in groups; practical examples; questions and answers; discussion and evaluation.

In terms of defining the Judicial Academy's curricula and plans, but also when giving opinions on draft laws in the criminal law area, the High Court Council will, within its competences, bear in mind and insist that the penitentiary and penal policy in this area is proportionate to the seriousness, frequency and consequences of the aforementioned criminal offences in our community.

## ANNEX

### OVERVIEW OF DETENTION UNITS CAPACITY ACCORDING TO THE STANDARDS IN INSTITUTIONS FOR THE EXECUTION OF CRIMINAL SANCTIONS

No.	INSTITUTION	DETENTION UNITS CAPACITY
1	PCI Požarevac - Zabela	40
2	PCI Sremska Mitrovica	144
3	PCI Niš	119
4	Juvenile PCI Valjevo	32
5	PCI Čuprija	71
6	PCI Šabac	77
7	PCI Sombor	32
8	DP Belgrade	804
9	DP Novi Sad	146
10	DP Leskovac	40
11	DP Zaječar	35
12	DP Zrenjanin	70
13	DP Pančevo	59
14	DP Subotica	39
15	DP Vranje	45
16	DP Kragujevac	33
17	DP Kraljevo	40
18	DP Kruševac	17
19	DP Prokuplje	22
20	DP Užice	28
21	DP Čačak	24
22	DP Novi Pazar	35
23	DP Negotin	21
24	DP Smederevo	41
<b>TOTAL</b>		<b>2,014</b>

**Supplementary responses and comments  
of the Ministry of the Interior and the Republican Public Prosecutor  
on the Report of the Committee for the prevention of torture and inhuman or degrading  
treatment or punishment regarding the Ad hoc visit to the Republic of Serbia  
conducted from 31 May to 7 June 2017**

**Supplementary responses and comments of the Ministry of the Interior**

**Paragraph 13**

The Ministry of the Interior agrees with the recommendation to create a dedicated property store for all confiscated items in every police station, starting with the district police headquarters and its position is that a procedure of public procurement for the provision of works for the construction - adaptation of these premises should be planned and initiated.

**Paragraph 16**

**Training of police officers is regularly implemented on the basis of the Programme of professional development of police officers which is a continuing form of training.**

The Programme of professional development of police officers for 2018 provides for the attendance of classes by the police officers of the Ministry of the Interior on the topic of "Commission for the implementation of the standard of police conduct in the area of torture prevention" with the following curricula: the concept of torture; prohibition of torture and cruel, inhuman and degrading punishment or procedures; criminal proceedings and the execution of punishment; use of coercion by the police; the competence of the Committee for the prevention of torture and inhuman or degrading treatment or punishment; the Commission of the Ministry of the Interior for monitoring the Convention of the Council of Europe on the prevention of torture and inhuman or degrading procedures and punishment. These topics were also an integral part of the regular (mandatory) theoretical education during 2017 within which classes were attended by 10.944 police officers while in 2018, until now, classes on this topic have been attended by 2.908 police officers.

Furthermore, the Programme of professional development of police officers for 2018 provides for the realisation of seminar "Implementation of the Instruction on the Conduct of Police Officers towards Apprehended and Detained Persons" by the organisational units of the Ministry of the Interior, if there is a need for such training, with the following defined content: rights of the apprehended and detained person; duties of the apprehended person, manner of the application of police powers - bringing; manner of the application of police powers - detention and a temporary restriction of the freedom of movement; records on bringing and detaining persons.

The Ministry of the Interior agrees to establish dedicated interview rooms with audio and/or video equipment for recording police interviews.

**Paragraph 17**

Each complaint regarding the work of police officers containing elements of criminal offence, in accordance with Article 234 Of the Law on Police is notified to the competent Public Prosecutor and the Ministry of the Interior (Sector of Internal Control and the Head of the organisational unit in which the accused officer works). The Methodology for the implementation of investigating cases of ill-treatment by the police involved the Ministry of the Interior (Sector of Internal Control) and the Republican Public Prosecution Office with the support of OSCE Mission in Serbia. The Republican Public Prosecution Office adopted the Methodology in the form of a binding instruction for public prosecutors and the Ministry of the Interior adopted on 18 October 2017 the Instruction on the methodology for the implementation of investigation in cases of ill-treatment by the police.

After the adoption of the cited methodology, the Sector of Internal Control of the Ministry of the Interior and the Republican Public Prosecution Office in cooperation with the Judicial Academy and OSCE Mission in Serbia proposed the organisation of trainings with the aim to educate the holders of the public prosecution roles and police officers of the Sector of Internal Control of the Ministry of the Interior on the manner of the application of the cited methodology. It was also recommended that other employees in the Ministry of the Interior (primarily police officers of the Police Directorate) also participated in trainings with aim of informing about the obligation of the Republic of Serbia to implement an effective, urgent and independent investigation of ill-treatment by the police, what is the competent authority for conducting the investigation and with the aim of presenting the existing practice of the European Court for Human Rights, legislation of the Republic of Serbia and the international legal framework in the cited area.

During April 2018 the Judicial Academy in cooperation with OSCE Mission in Serbia organised training in Novi Sad for 25 representatives of the Republican Public Prosecution office and the Ministry of the Interior and in Belgrade for 29 representatives. In addition to police officers of the Sector of the Interior, the Criminal Investigations Directorate and district police departments in Novi Sad and Belgrade, the members of the Commission for the implementation of the standard of the police conduct in the area of torture also took part in the training in Belgrade. In May and June 2018 two more trainings will be realised in Kragujevac and Niš for 25 representatives of the Republican Public prosecution Office and the Ministry of the Interior, for each of the cities, and in the second half of 2018 one more training series will be realised in these cities. The plan is to realise trainings in 2019 in order that more representatives of the Republican Public Prosecution Office and Ministry of the Interior could undergo the cited training.

The Ministry of the Interior, within the project under the name “Strengthening human rights of detainees and convicted persons in Serbia”, in the framework of the joint programme of the Council of Europe and the European Union “Horizontal Support Programme to the Western Balkans and Turkey”, continued activities in 2018 on the analysis of the existing curricula in connection with the prevention of ill-treatment by the police and on its improvement on the basis of the conducted analysis.

**Paragraph 33**

The work for drawing up the Rulebook on the manner of the application of police powers is continuing elaborating in more detail the police powers as well as the conduct of police officers regarding bringing and detaining persons, so the proposal of the Committee is to essentially amend the Instruction on the Conduct of Police Officers towards Apprehended and Detained Persons found its place in the cited Rulebook due to functional connections and the content of police powers itself and the exercise of coercion means. Drawing up of the Rulebook stopped in May 2017 due to the fact that the amending procedure was initiated for the Law on Police, which was adopted in March 2018.

**Paragraph 35**

The police may interview the suspect only if the public prosecutor has entrusted hearing to the police (Article 289 of the Criminal Procedures Code). If the suspect accepts to give a statement, his/her hearing shall be attended by the defender.

**Paragraph 37**

The adoption of the Rulebook on the manner of the application of police powers is pending, within which the gaps from the Instruction on the Conduct of Police Officers towards Apprehended and Detained Persons will be removed.

**Paragraph 39**

There is a plan to improve the electronic records “Records of apprehended and detained persons”.

**Paragraph 40**

In connection with the recommendation that the safety and security of detaining apprehended persons by the police would be enforced if the premises where the measure of detention is being performed were equipped with appropriate rooms for interviews, the view of the Ministry of the Interior is that the Republic of Serbia should implement best practice in this field according to the standards of the police of the European Union countries.

**Paragraph 41**

The Sector for Human Resources - Department for professional development and training of the Ministry of the Interior, within trainings and courses representing forms of professional training for the performance of police tasks, pays great attention to curricular topics in which human rights and the protection of freedoms of people are studied, which are contained in the national and international regulations, as well as to the recommendations of institutions and bodies responsible for monitoring and surveillance of the exercise and the protection of human rights. Within the basic police training one of the subject in “General topics of the

work of the police” is subject “Human rights and the Police Code of Ethics” which attendees listen in the total fund of 31 classes, and within continuing training (professional development) it is foreseen that police officers attend classes during the year relating to the implementation of the standards of the police conduct in the area of the prevention of torture. Although drawing up instructive acts which could regulate a certain area of the police conduct and the application of police powers is not the responsibility of the Sector for Human Resources, this organisational unit is ready to provide professional support and assistance on this issue because the support to the rule of law is one of the basic principles in the work of the Ministry of the Interior on the basis of which the system of all trainings of police officers is designed.

## **Paragraph 42**

In connection with addressing the issue of the improvement of conditions in premises for the detention of persons in police departments of the Ministry of the Interior, in 2017 the procurement procedure was planned and launched for works on the remediation and adaptation of cells for detention in the facilities of police departments. After the completion of the procedure and the selection of the most favourable bidder, on 19 February 2018 a Contract was signed for the execution of works for the remediation and adaptation of cells for detention in the following organisational units:

- PD Kragujevac - 2 cells
- PD Batočina - 1 cell
- PD Sremska Mitrovica - 1 cell
- PS Irig - 1 cell
- PS Inđija - 1 cell
- PS Stari Grad - 1 cell
- PD Subotica - 1 cell

The deadline for the completion of works is 90 days. The induction phase of works of the selected contractor is pending and the completion of works is expected by mid-June 2018. The construction of the new PS facility in Aleksandrovac is pending, so that after the completion of the construction one more cell will be available in accordance with all recommendations for the construction, adaptation and equipment of detention premises. Also, in the course of 2017 the Police directorate drew up a project proposal for the adaptation and renovation of 40 detention cells which will be financed by the European Commission within the process of IPA 2018 programming.

In connection with drawing up the Code of Conduct for police interviews the position of the Ministry of the Interior is that the Code should be drawn up noting that police officers of the Ministry of the Interior are to act according to the Instruction on the Conduct of Police Officers towards Apprehended and Detained Persons where a detained person is introduced with rights on the basis of Articles 291 and 294 of the Criminal Procedures Code.

At the start of 2018 the Rulebook on the conditions that have to be met by cells for the detention of persons was adopted, inter alia, citing that the adaptation of the existing and the construction of new cells under the foreseen conditions referred to in the Rulebook, will be executed in the period of three years from the day of its coming into force by which the required material resources and funds will be ensured in equal continuity.

### **Information recorded from the Republican Public Prosecution Office**

The Working Group comprising the representatives of the Republican Public prosecution Office and the Ministry of the Interior, Sector of Internal Control, drew up the **Methodology for the implementation of investigation into ill-treatment by the police**.

The methodology is intended for prosecutors and police officers and relates to the cases of alleged ill-treatment by police officers, whereby the scope of its application can be extended to investigation into all other cases of ill-treatment, when the alleged perpetrators are officials.

In cooperation with OSCE Mission in Serbia, activities on the promotion of the Methodology were implemented, firstly printing the document and then the organisation of trainings for public prosecutors and police officers with the aim of an appropriate and efficient application of the Methodology.

The plan is to present the Methodology to public prosecutors and police officers, at 8 one-day seminars during 2018 in cooperation with the Judicial Academy. So far, two seminars were held in March 2018 in Novi Sad and in April 2018 in Belgrade.

The Republican Public Prosecutor issued on 26.09.2017 The General mandatory instruction on the application of the Methodology for investigation into cases of ill-treatment, according to which all public prosecutors are obliged to undertake actions and measures provided for in the Methodology for investigation into cases of ill-treatment in cases relating to ill-treatment by police officers, in particular regarding criminal acts of the extortion of statements referred to in Article 136 of the CC and ill-treatment and torture referred to in Article 137 of the CC.