



CPT/Inf (2009) 25

**Report to the Government of  
Bosnia and Herzegovina  
on the visit to Bosnia and Herzegovina  
carried out by the European Committee  
for the Prevention of Torture and Inhuman  
or Degrading Treatment or Punishment (CPT)  
from 19 to 30 March 2007**

The Government of Bosnia and Herzegovina has decided to place this report and the responses thereto in the public domain. The Government's responses are set out in document CPT/Inf (2009) 26.

Strasbourg, 14 October 2009



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

Strasbourg, 20 July 2007

Dear Madam,

In pursuance of Article 10, paragraph 1, of the European Convention for the prevention of torture and inhuman or degrading treatment or punishment, I enclose herewith the report to the Government of Bosnia and Herzegovina drawn up by the European Committee for the prevention of torture and inhuman or degrading treatment or punishment (CPT) following its visit to Bosnia and Herzegovina from 19 to 30 March 2007. The report was adopted by the CPT at its 63rd meeting, held from 2 to 6 July 2007.

The various recommendations, comments and requests for information formulated by the CPT are listed in Appendix I. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the Committee requests the authorities of Bosnia and Herzegovina to provide **within six months** a response giving a full account of action taken to implement them; with respect to the recommendations in paragraphs 35 and 71, the CPT would like to receive the authorities response **within three months**.

The CPT trusts that it will also be possible for the authorities of Bosnia and Herzegovina to provide, in the above-mentioned response requested within six months, reactions to the comments formulated in this report which are summarised in Appendix I as well as replies to the requests for information made.

The CPT would ask, in the event of the responses being forwarded in the local language, that they be accompanied by an English or French translation. It would be most helpful if the authorities of Bosnia and Herzegovina could provide a copy of the responses in a computer-readable form.

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

Yours faithfully,

Mauro PALMA  
President of the European Committee for the  
prevention of torture and inhuman  
or degrading treatment or punishment

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## 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 Bosnia and Herzegovina from 19 to 30 March 2007. The visit was organised within the framework of the CPT's programme of periodic visits for 2007; it was the Committee's third visit to Bosnia and Herzegovina, and the second of a periodic nature.

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

- Renate KICKER (Head of delegation and 1<sup>st</sup> Vice-President of the CPT)
- Gergely FLIEGAUF
- Eugenijus GEFENAS
- Pétur HAUSSON
- Antonius VAN KALMTHOUT.

They were supported by the following members of the CPT's Secretariat:

- Hugh CHETWYND
- Marco LEIDEKKER

and assisted by

- Clive MEUX, Consultant forensic psychiatrist, Oxford (United Kingdom)
- Alan MITCHELL, former Head of Health Care, Scottish Prison Service (United Kingdom)
- Spomenka BEUS, Interpreter
- Ksenija KEIVANZADEH, Interpreter
- Senada KRESO, Interpreter
- Jamila MILOVIĆ, Interpreter
- Svetlana PAVIČIĆ, Interpreter
- Amira SADIKOVIĆ, Interpreter

**B. Establishments visited**

3. The delegation visited the following places of detention:

**Police establishments**

*Federation of Bosnia and Herzegovina*

- Goražde Police Station, Canton of Bosna Podrinje
- Konjic Police Station, Canton of Herzegovina-Neretva
- Mostar Centar Police Station, Canton of Herzegovina-Neretva
- Novo Sarajevo Police Station, Canton of Sarajevo
- Zenica Police Station, Canton of Zenica-Doboj

*Republika Srpska*

- Bratunac Police Station
- East Sarajevo Police Station
- Foča Police Station
- Pale Police Station
- Srebrenica Police Station
- Višegrad Police Station

**Prison establishments**

*Federation of Bosnia and Herzegovina*

- Remand section of Mostar Prison
- Sarajevo Remand Prison
- Zenica Closed Prison

*Republika Srpska*

- Remand section of East Sarajevo Prison
- Foča Closed Prison

The delegation also interviewed certain prisoners and members of staff at Banja Luka and Doboj Prisons

**Psychiatric institutions**

*Federation of Bosnia and Herzegovina*

- Forensic Psychiatric Unit in Zenica Prison

*Republika Srpska*

- Sokolac Psychiatric Hospital, Republika Srpska

**Social care homes**

*Federation of Bosnia and Herzegovina*

- Fojnica "Drin" Home for Mentally Disabled Persons

*Republika Srpska*

- Višegrad Institution for the Protection of Female Children and Youth



**C. Consultations held by the delegation**

4. In the course of the visit, the delegation held consultations with Barisa ČOLAK, Minister of Justice, Srđjan ARNAUT, Deputy Minister of Justice, and Slavko MARIN, Deputy State Minister of Human Rights and Refugees, as well as with senior officials from relevant State and Entity Ministries. It also met with the State Ombudsman and the Chief Prosecutor of the Federation of Bosnia and Herzegovina, and held discussions with members of non-governmental and international organisations active in areas of concern to the CPT.

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

**D. Cooperation between the CPT and the authorities of Bosnia and Herzegovina**

5. The degree of cooperation received during the visit from the authorities of Bosnia and Herzegovina was very good at all levels. The delegation noted that the authorities had clearly provided information about the Committee's mandate and powers; consequently, it had rapid access to the establishments it wished to visit, to the documentation it wanted to consult and to individuals with whom it wished to talk. In particular, the delegation would like to thank the CPT liaison officer, Minka Smajević, for the assistance provided both before and during the visit.

6. The principle of cooperation set out in the Convention also requires that decisive action be taken to improve the situation in the light of the Committee's recommendations.

The authorities appear to have only adopted certain limited measures in response to the recommendations made by the Committee after previous visits. The CPT welcomes the action that has been taken; however, the fundamental measures required to improve the situation in, for example, the prisons and the psychiatric hospital visited were lacking. In particular, the authorities should invest greater efforts to tackle the systemic deficiencies, in relation to the prison service and the provision of forensic psychiatric care; this will require *inter alia* better cooperation and coordination among the relevant ministries and government bodies. Therefore, the Committee has been obliged to reiterate many of its previous recommendations.

Having regard to Article 3 of the Convention, the CPT urges the authorities of Bosnia and Herzegovina to significantly intensify their efforts to improve the situation in the light of the Committee's recommendations.

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

7. At the meeting which took place at the end of the visit on 30 March 2007, the CPT's delegation made an immediate observation under Article 8, paragraph 5, of the Convention as regards the conditions in the cells at Foča Police Station and certain of the segregation cells in Sarajevo Remand Prison, and requested that these cells be taken out of use immediately.

By letter of 31 May 2007, the authorities of Bosnia and Herzegovina confirmed that these cells were no longer in use and also provided information on a number of issues raised by the delegation at the end of the visit. The response has been taken into account in the relevant sections of the present report.

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

### A. Law enforcement agencies

#### 1. Preliminary remarks

8. In the period since the first CPT visit to Bosnia and Herzegovina in April/May 2003, new criminal codes and criminal procedure codes have entered into force at the level of the State, Federation of Bosnia and Herzegovina, Republika Srpska and the Brčko District. The new criminal legislation has profoundly changed the criminal justice system, transforming it into an adversarial system; investigative functions have been transferred to the prosecutor and the office of the investigative judge has been abolished.

Under the new legislation, persons deprived of their liberty by the police on suspicion of having committed a criminal offence must be brought before a prosecutor within 24 hours, who must, within the following 24 hours, either submit a request to the preliminary proceedings judge to remand the suspect in custody or order release<sup>1</sup>. Thus, the maximum period of police custody is 48 hours.

9. Further to the creation of a Ministry of Security in March 2003, the State has reinforced its competences in the area of law enforcement with the creation of the State Information and Protection Agency (SIPA)<sup>2</sup>, a State intelligence service and the continued development of the State Border Police. However, despite strong pressure by the international community and the fact that police reform is a precondition for the conclusion of a Stabilisation and Association Agreement with the European Union, there has been little progress in agreeing upon a single structure of policing for the country.

For the time being, competence for police matters lies with the Ministries of Interior of the Republika Srpska, the ten cantons of the Federation of Bosnia and Herzegovina and the Brčko District. The Ministry of Interior of the Federation has limited policing competencies (combating international and inter-cantonal crimes, in particular terrorism, drug trafficking and organised crime, as well as cooperation with Interpol).

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<sup>1</sup> See Articles 134, 135 and 139 of the State Criminal Procedure Code; Articles 148 and 153 of the Federation of Bosnia and Herzegovina Criminal Procedure Code; Articles 191 and 196 of the Republika Srpska Criminal Procedure Code

<sup>2</sup> SIPA is tasked with exchanging law enforcement information and, in addition, with providing protection for national institutions and representatives, as well as facilitating inter-entity and regional cooperation in combating organised crime, human trafficking and international terrorism.

## 2. Ill-treatment

10. A majority of the persons met by the CPT's delegation, which carried out the 2007 visit, made no complaints about the manner in which they were treated while in the custody of the police. However, as was the case during the previous visit, a number of persons did allege physical ill-treatment by the police. The alleged ill-treatment consisted mostly of kicks, punches and blows with batons to various parts of the body. The allegations concerned in the main the time when suspects were being questioned by crime inspectors in their offices, sometimes for prolonged periods, prior to being placed in holding cells.

For example, the delegation heard allegations from two persons, held separately, that over the course of 48 hours they were repeatedly punched and kicked by police officers in the crime inspector's office, and that they received verbal threats that they would be thrown out of the window of the office or dragged along the street while attached to a car; one of them also alleged that he was hit with the butt of a pistol.

11. In one case, the delegation met a person who alleged he had been kicked, punched and subjected to blows with a baton both upon arrest in the street and in an office in the police station; apparently, an automatic weapon was cocked and pointed at his head and an officer said, "let's just shoot him". Subsequently, the prison authorities refused to accept him into their custody due to his visible injuries and he was taken to the local hospital, where his injuries were recorded. The hospital file noted that the man had been beaten at Pale Police Station, and recorded in detail the cuts and bruising to various parts of his body. In the presence of his lawyer, the man in question made a complaint to the prosecutor concerning the alleged ill-treatment. However, despite the medical evidence and the fact that the injuries were still visible, the prosecutor had taken no further action.

Another person met by the delegation stated that he was repeatedly punched and kicked by police officers at the time of his arrest and upon his arrival at the police station. Despite being medically examined on three occasions following the ill-treatment, his injuries were not recorded. The delegation requested that a forensic medical examination be carried out, and the results of that examination confirmed the injuries already noted by the delegation's doctor<sup>3</sup>. The responsible prosecutor, who had previously interviewed the detained man at the police station, expressed surprise at these findings as no complaint had been made to him. However, it emerged that the interview with the prosecutor had been conducted in the presence of the very police officers allegedly involved in beating him; consequently, it is understandable that no allegations of ill-treatment had been made.

The delegation also met other persons who alleged having been ill-treated by police officers, including one person who apparently had the barrel of a pistol inserted into his mouth during questioning.

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<sup>3</sup> On examination, this man had 2 abrasions on his chin (measuring 1.5cm by 0.9cm and 1.1cm by 0.5cm, respectively); on the pinna of the left ear there were a number of petechial bruises, consistent with his allegation of having being hit around the left ear. On the left side of the head, there was a swollen area in relation to the left parietal bone (measuring 8.5cm by 6.5cm) and therein was an area of diffuse red bruising (measuring 4.5cm by 4.5cm). On the right temple there was a crusted bloodstained lesion (measuring 1.2cm by 0.4cm) and there were cuff marks on both wrists.

12. The delegation also met several patients at Sokolac Psychiatric Hospital who alleged that they had been punched and hit with batons by police officers at the time of their apprehension. These allegations were confirmed by one of the doctors working in the Male Acute Ward of the hospital. **The CPT wishes to be informed about the legal regulations and safeguards in place regarding the apprehension by the police of persons who appear mentally agitated.**

13. The information gathered in the course of the 2007 visit concerning ill-treatment highlights the necessity for continued, determined, action by the authorities to address the situation. All means should be explored to ensure that the message of zero tolerance of ill-treatment of detained persons reaches all law enforcement officials at all levels; they should be made aware, through concrete action, that the government is resolved to stamp out ill-treatment of persons deprived of their liberty. The rule of law entails not only the adoption of the appropriate legal norms but also taking the necessary steps to ensure their application. In this respect, the CPT notes that the Entity Ministries of Interior circulated the preliminary observations made by the CPT's delegation at the end of the visit to all police services and reiterated that ill-treatment by police officers would be the subject of criminal and/or disciplinary sanctions. The CPT considers that there should periodically be an instruction from the Ministers of Interior or the Chiefs of Police explicitly reminding police officers that infringements of the law will result in criminal and/or disciplinary sanctions. **The CPT recommends that the Ministers of Interior and Police Commissioners deliver a strong message that the ill-treatment of detained persons is illegal, unprofessional, and will be the subject of severe sanctions. Moreover, the CPT would like to receive information on the action taken regarding the case referred to in paragraph 11, second sub-paragraph.**

14. The CPT's delegation found a number of unlabelled items such as baseball bats, replica pistols, and metal piping (with wrist strap) in interview rooms in a number of the police stations visited. There is no legitimate reason for such objects to be kept in rooms used for interviewing suspects. In most instances, the duty police officers acknowledged that 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. 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. **The CPT would like to receive confirmation that all unauthorised items have now been removed from interview rooms.**

15. As indicated in the previous report, it is essential to ensure that police officers themselves view ill-treatment as an unprofessional means of carrying out their duties, as well as being a criminal act. This implies strict selection criteria at the time of recruitment and the provision of adequate professional training, both initial and in-service. Moreover, such training should seek to put across and develop two points: firstly, that all forms of ill-treatment are an affront to the human dignity of both the victim and the perpetrator and, as such, are incompatible with the values enshrined in the Constitution and laws as well as in international instruments ratified by and binding upon Bosnia and Herzegovina; secondly, that resort to ill-treatment is a fundamentally-flawed method of obtaining reliable evidence for combating crime. More advanced interrogation and investigation techniques will lead to better results from a security standpoint.

In its response to the report on the 2003 periodic visit, the authorities of Bosnia and Herzegovina informed the CPT about the education of police officers with regard to human rights issues. However, theory and practice are often very different, and new recruits may find it hard to apply the correct procedures on the ground, especially if not supported by more experienced officers. For this reason, **the CPT recommends that the authorities pursue a multifaceted approach, comprising: a competitive recruitment process based upon strict selection criteria; an educational training course for all new recruits; and the provision of specific competency courses, on a regular basis, for serving police officers, both to update their skills and knowledge and to provide them with new competencies.**

16. The CPT wishes to re-emphasise the important role of the judicial and prosecutorial authorities in the prevention of ill-treatment. Several persons interviewed by the delegation stated that their attempts to complain to the prosecutor or to the judge before whom they were brought had either met with no response or been held against them. **The CPT recommends that the Chief Prosecutors in both Entities recall firmly that prosecutors are under a legal obligation to investigate all cases of alleged ill-treatment.**

It is axiomatic that prosecutors and judges should take appropriate action when there are indications that ill-treatment by the police may have occurred. In this regard, **the CPT once again recommends that, whenever criminal suspects brought before a prosecutor or judge allege ill-treatment by law enforcement officials, the prosecutor/judge record the allegations in writing, order immediately a forensic medical examination and take the necessary steps to ensure that the allegations are properly investigated. Such an approach should be followed whether or not the person concerned bears visible external injuries. Further, even in the absence of an express allegation of ill-treatment, the prosecutor/judge should request a forensic medical examination whenever there are other grounds to believe that a person brought before him could have been the victim of ill-treatment. If necessary, the relevant legal provisions should be amended.**

### 3. Safeguards against ill-treatment

17. The CPT places particular emphasis on three fundamental rights, namely the right of detained persons to inform a close relative or another third party of their choice of their situation, and the right of access to a lawyer and to a doctor. It is equally fundamental that persons deprived of their liberty by the police be informed without delay of all their rights, including those mentioned above.

As noted in the report on the 2003 visit (see CPT/Inf (2004) 40, paragraph 27), Article 5 of the criminal procedure codes at State and Entity level provides for the right of notification and of access to a lawyer. However, regrettably there is still no formal guarantee of a right of access to a doctor.

The information gathered in the course of the 2007 visit highlights that there continues to be a need to improve the practical effectiveness of these rights.

a. notification of custody

18. Many persons interviewed by the CPT's delegation alleged that the right of notification of custody had not been granted to them as from the outset of their deprivation of liberty. Instead an opportunity to notify relatives of their custody was apparently only granted after the questioning by the police had been terminated and the statement drawn up.

**The CPT recommends that the authorities of Bosnia and Herzegovina ensure that all detained persons are granted the right to notify a close relative or third party of their choice of their situation as from the very outset of their deprivation of liberty by the police.<sup>4</sup>**

b. access to a lawyer

19. As was the case in 2003, the CPT's delegation found that the right of access to a lawyer often only became effective some time after the persons concerned had been deprived of their liberty. Many of the persons interviewed by the delegation claimed that they had not been permitted to contact a lawyer or even informed of their rights until after being questioned by the crime police. In many cases, access to a lawyer seemed to occur only after the detained persons were brought before a judge to be remanded in custody.

20. The CPT is obliged to reiterate its concern at this state of affairs. The Committee must draw to the attention of the authorities once again that, in its experience, it is during the period immediately following the deprivation of liberty that the risk of physical ill-treatment and intimidation is greatest. Consequently, the right for persons deprived of their liberty by the law enforcement authorities to have access to a lawyer during this period is a fundamental safeguard against ill-treatment. Further, as regards juveniles, steps should be taken to ensure that an adult responsible for the interests of the juvenile (i.e. a relative or a guardian) is present when the juvenile concerned is interviewed.

The right of access to a lawyer must include the right for any person deprived of their liberty to talk to his lawyer in private upon being admitted into the police station. The person concerned should, in principle, be entitled to have a lawyer present during any interrogation, whether this be before or after he is charged. Naturally, the fact that a detained person has stated that he wishes to have access to a lawyer should not prevent the police from beginning to question him on urgent matters before the lawyer arrives. Provision could also be made for the replacement of a lawyer who impedes the proper conduct of an interrogation, on the understanding that such a possibility should be strictly circumscribed and subject to appropriate safeguards.

**The CPT recommends that the authorities of Bosnia and Herzegovina ensure that a right of access to a lawyer, as defined above, is both explicitly granted in law and rendered effective in practice for everyone deprived of their liberty by the law enforcement authorities, from the very outset of their deprivation of liberty.**

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<sup>4</sup> Any possibility exceptionally to delay the exercise of this right should be clearly circumscribed in law and any such delay should be made subject to appropriate safeguards (i.e. the decision to delay to be recorded in writing along with the reason therefor, and to require the approval of a prosecutor or judge) and strictly limited in time.

c. access to a doctor

21. The right of persons in police custody to have access to a doctor is still not formally guaranteed by law in Bosnia and Herzegovina. In the course of the visit, a number of persons who alleged ill-treatment by police officers stated that they had not been offered the opportunity to contact a doctor. **The CPT recommends that specific legal provisions be adopted on this subject, in line with the criteria stipulated in the Committee's report on the 2003 visit** (see CPT/Inf (2004) 40, paragraph 30).

d. information on rights

22. The delegation was told that, in theory, all persons deprived of their liberty by the police were informed of their rights verbally upon apprehension; further, custody registers in police stations contained separate sections relating to the rights of detained persons to notify someone of their deprivation of liberty and to contact a lawyer. Another section foresaw whether the detained person wanted to request a doctor. All detained persons should have these sections read out to them and they should sign the relevant parts of the custody register, indicating whether or not they wished to avail themselves of the rights concerned.

In practice, it appeared that many people were not informed of their rights. Moreover, a considerable number of entries in the custody records were not properly filled out and the sections referring to the rights of detained persons were often blank; such a state of affairs was observed, for example, at Konjic and Mostar Centar police stations.

The standardised custody registers (*evidencija*) (see CPT/Inf (2004) 40, paragraph 32) found in all police stations visited represent potentially an important safeguard, as well as being a means of facilitating internal and external supervision mechanisms. However, for this to be the case they must be scrupulously filled out. **The CPT recommends that the authorities take the necessary steps to this effect.**



#### 4. Material conditions

23. In the report on the 2003 visit, the CPT set out the minimum requirements for police holding facilities (see CPT/Inf (2004) 40, paragraph 33). In the course of the 2007 visit, the CPT's delegation was pleased to observe that most of the police stations visited complied with these criteria, such as at Bratunac, Novo Sarajevo and Srebrenica, and that improvements had been made at Pale Police Station.

However, the cells at Konjic and Mostar Centar police stations were in a poor condition; they had little access to natural light, poor artificial lighting and inadequate ventilation, and they were dirty and malodorous. The conditions in the two cells at Foča Police Station were even worse, and the delegation requested that these cells be taken out of service until they were properly refurbished or replaced. The proposed cell area in Višegrad Police Station is totally unsuitable and should not be brought into service.

By letter of 31 May 2007, the authorities of Bosnia and Herzegovina informed the CPT that the cells in Foča Police Station had been taken out of service pending their renovation and that the cell area at Višegrad Police Stations would not be used.

**The CPT recommends that the authorities of Bosnia and Herzegovina pursue their programme of upgrading police holding facilities; in particular, steps should be taken to improve conditions in the cells at Konjic and Mostar Centar police stations, in the light of the above remarks.**

## **B. Prison establishments**

### **1. Preliminary remarks**

24. In 2007, the delegation visited Foča Prison for the first time and carried out follow-up visits to Sarajevo and Zenica prisons. Further, when in the course of this visit it emerged that a riot was taking place in Dobož Prison, the delegation decided to monitor the situation at this establishment in the immediate aftermath of the riot. The delegation also visited East Sarajevo and Mostar prisons, where it interviewed prisoners on remand.

25. **Foča Prison**, located on the banks of the river Drina on the outskirts of the town, was built in the 1960s and is the only high-security prison in the Republika Srpska. It was originally designed for up to 900 inmates but it was heavily damaged at the end of the war in 1995, and its current capacity is 300. The establishment consists of two similar adjacent four-storey accommodation blocks, Building I and Building II, situated within a secure perimeter. The grounds also contain the administrative buildings and the workshops.

The layout of the prisoners' accommodation in Foča Prison is similar to that in other prisons in Bosnia and Herzegovina: a number of units (*kolektivs*) consisting of several dormitories, toilet and common room facilities. At the time of the visit, it was accommodating 273 sentenced prisoners, of whom 50 were placed in a semi-open unit outside the prison perimeter. The delegation focused its attention on Building II, where the vast majority of the 223 prisoners held within the secure perimeter of the prison were located. Building I was still under construction and, a part from the health-care unit, in which a few inmates were accommodated, the building was empty.

The remand section of **Sarajevo Prison**<sup>5</sup> remained overcrowded, with 145 inmates for an official capacity of 110. The delegation did not visit the affiliated facilities for sentenced prisoners on Mount Igman and in Goražde.

**Zenica Prison**<sup>6</sup> continued to be the only high-security prison in the Federation; at the time of the visit, it was holding 779 inmates (of whom, 111 were located in pavilions outside the secure perimeter and 17 in hospital) for an official capacity of 613 prisoners. The delegation targeted in particular Pavilions I, II, V and the forensic psychiatric annexe (see paragraphs 102 to 104 below).

26. As previously noted, Bosnia and Herzegovina adopted new harmonised criminal legislation at the State and Entity level in 2003, and extended the competence of the State Court to criminal matters, particularly as regards organised crime, terrorism and war crimes. In parallel, Bosnia and Herzegovina established a pre-trial detention facility at State level in Sarajevo and is in the process of seeking funding for a State-level prison establishment (with a proposed capacity of 350).

In 2004, a new law on the execution of criminal sanctions was adopted at State level, which was intended to lead the way towards harmonisation of prison legislation and a more co-ordinated approach towards the running of the separate prison systems by the State and Entities.

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<sup>5</sup> See CPT/ Inf (2004) 40, paragraph 40.

<sup>6</sup> See CPT/ Inf (2004) 40, paragraphs 41 and 64 to 68.

However, in practice, the structure of the prison system in Bosnia and Herzegovina has remained unaltered since the last CPT visit in 2003, with each Entity operating its prisons autonomously (see CPT/Inf (2004) 40, paragraph 35). For the time being, the majority of persons remanded in custody by the State Court are held in East Sarajevo Prison or in the State-level temporary pre-trial detention facility, which had originally been established to accommodate war crimes suspects. Persons sentenced by the State Court are imprisoned in Zenica Prison and, on occasion, in Foča Prison.

27. The findings of the 2007 visit demonstrate that the prison system in Bosnia and Herzegovina continues to suffer from the flaws already observed in 2003, and that many of the CPT's recommendations have yet to be implemented. The conditions in the prisons visited, particularly those in Sarajevo and Zenica, remain poor.

28. The delegation was particularly concerned that no progress whatsoever had been made with respect to the accommodation of juveniles. Contrary to what was affirmed in the response of the authorities of Bosnia and Herzegovina to the CPT's report on the 2003 visit<sup>7</sup>, juveniles continued to share cells with adult prisoners in Sarajevo Prison (for instance, cell 61). In Pavilion V of Zenica Prison, juveniles and adults were held in individual rooms on the same corridor with the doors unlocked at night. In Foča Prison, juvenile prisoners were being accommodated in a special room in the admission ward where they shared toilet and shower facilities with adult males. At night, the juvenile room would remain unlocked without any staff supervision. The placement of juveniles in such conditions is of concern to the CPT.

The delegation requested that the authorities inform the CPT as to what measures would be taken to ensure the strict separation of juvenile and adult prisoners. By letter of 31 May 2007, the Republika Srpska authorities informed the CPT of their intention to build a new unit for juvenile prisoners, with the exact location still to be decided.

In principle, the CPT welcomes the construction of such a unit, provided that the accommodation is suitably adapted to the needs of juveniles. That is, small units, a multi-disciplinary team (preferably of mixed gender) selected and specially trained for work with juveniles, and a regime adapted to the needs of juveniles. It would be preferable for such a unit to have its own management.

No information regarding the treatment of juveniles was received from the authorities of the Federation of Bosnia and Herzegovina.

**The CPT calls upon the relevant authorities to take all necessary steps as a matter of priority to put an end to the practice of accommodating juveniles together with adults. Further, the CPT would like to be kept informed by the authorities of the Republika Srpska concerning the development of the proposed juvenile unit.**

29. Despite the overall lack of progress, there were a few initiatives in the pipeline aimed at improving the situation. For instance, the Ministries of Justice of both Entities are currently working on a Memorandum of Understanding to enable the transfer of prisoners from one Entity to another.

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<sup>7</sup> See CPT/Inf (2004) 41, Part B, paragraph 7.

30. The harmonised criminal procedure codes at the level of the State and Entities introduced in 2003, provide a new legal framework for remand prisoners throughout Bosnia and Herzegovina<sup>8</sup>, and include provisions for regular reviews of pre-trial detention<sup>9</sup>. The information collected by the delegation would indicate that, in general, these provisions were being followed.

The new criminal procedure codes attribute significant responsibilities regarding remand prisoners to the judiciary. For instance, the granting of certain privileges and the application of disciplinary measures are the exclusive prerogative of the court or supervising judge.

On various occasions during visits to remand prisons in both Entities, the delegation was told that prison management has to request authorisation to perform seemingly day-to-day managerial tasks. For instance, at Sarajevo Prison when the delegation asked for a juvenile inmate to be transferred to another cell, the deputy director of the prison stated that he could not do so without prior authorisation from the court. **The CPT would like to receive clarification as to the role of courts and judges in the operational decisions concerning remand prisoners.**

31. At State level, the Law on Execution of Criminal Sanctions, Detention and other Measures of Bosnia and Herzegovina entered into force in early 2005, elaborating rules for prisoners sentenced by the court of Bosnia and Herzegovina. However, there is, to date, no State-level prison to which such persons can be committed.

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<sup>8</sup> Articles 145 to 161 of the Criminal Procedure Code of the Federation of Bosnia and Herzegovina; Articles 188 to 195 of the Criminal Code of Procedure of the Republika Srpska; and Articles 131 to 147 of the Criminal Code of Procedure Code of Bosnia and Herzegovina.

<sup>9</sup> Article 149 of the Federation Criminal Procedure Code; Article 192 Criminal Procedure Code of the Republika Srpska; and Article 135 of the Criminal Procedure Code of Bosnia and Herzegovina.

## 2. Ill-treatment

32. As was the case in 2003, the vast majority of prisoners interviewed during the course of the 2007 visit in the **Sarajevo, East Sarajevo** and **Mostar** prisons made no allegations of ill-treatment by prison staff; similar observations were made in respect of **Foča Prison**.

33. In contrast, the information gathered by the delegation at **Zenica Prison** is a source of considerable concern to the CPT. In 2003, the CPT recorded various serious allegations of ill-treatment of prisoners by prison staff. That visit took place in the aftermath of a prison riot and the alleged ill-treatment was related to this event. However, the numerous allegations of ill-treatment by prison staff gathered in the course of the 2007 visit, would suggest that ill-treatment could well be a general problem in Zenica Prison.

The allegations received reveal a pattern similar to the CPT's 2003 findings. The alleged ill-treatment mainly took place in, or during transfer to, the disciplinary cells on the second floor of Pavilion II; that is, either on the staircase or in one of the two special cells. The ill-treatment consisted mainly of kicks, punches and blows with truncheons, but some allegations also concerned sexual abuse. In interviews with prisoners at Zenica Prison, as well as with inmates in other prisons who had previously been held in Zenica, the name of several members of prison staff came up time-and-time again as the main perpetrators of ill-treatment.

34. A number of the allegations received were supported by medical evidence. For instance, a prisoner alleged that, a few weeks prior to the CPT's visit, he had been taken to Pavilion II where he had been punched and kicked by prison guards. In the notes of the medical doctor of Zenica Prison, it was written that the man had bruising around the left eye, on both sides of the lower and upper back, and on the anterior side of the right thigh.

35. When confronted with the delegation's findings, the management of Zenica Prison decided to request the State Ombudsperson to launch an immediate inquiry into the allegations of ill-treatment. Further, the delegation informed the Chief Prosecutor of the Federation of Bosnia and Herzegovina about its findings.

**The CPT would like to receive a copy of the State Ombudsperson's report and to be informed about the action taken by the Chief Prosecutor.**

Furthermore, **the CPT recommends that the relevant authorities deliver the clear message to staff at Zenica Prison that physical ill-treatment of prisoners is not acceptable and will be dealt with severely.**

36. The CPT wishes to reiterate that one of the best guarantees against ill-treatment lies in a properly recruited and trained prison officer, who knows how to adopt the appropriate attitude in his or her relations with prisoners. In this regard, developed interpersonal communication skills are an essential part of the make-up of such staff. These skills will often enable them to defuse a situation which could otherwise turn into violence.

**The CPT recommends that the relevant authorities continue to give a high priority to the development of prison staff training, both initial and ongoing. In the course of such training, considerable emphasis should be placed on the acquisition of interpersonal communication skills. Building positive relations with prisoners should be recognised as a key feature of a prison officer's vocation.**

37. The role of health care staff is of crucial importance. The staff concerned will often be the first interlocutor of prisoners who have been ill-treated. In Zenica Prison the delegation noted that the injuries were being recorded by the doctor, which represents an improvement upon 2003<sup>10</sup>. However, the notes of the examinations were kept locked in a special drawer, separate from the prisoners' medical files, and the doctor would not inform the prison management of his findings. Similar observations were made in East Sarajevo Prison.

The CPT is aware that, in this context, the principle of medical confidentiality is often raised as an objection to medical staff taking action upon findings of ill-treatment. However, in the CPT's view upholding this principle should not preclude reporting cases of ill-treatment to prison authorities, even in the absence of formal complaints by the inmates involved.

**The CPT recommends that the results of every medical examination should be included in the medical file of the person concerned. Further, whenever injuries are recorded by a doctor which are consistent with allegations of ill-treatment, the matter should be immediately brought to the attention of the relevant prosecutor and a preliminary investigation initiated.**

38. It should be noted that the management of Zenica Prison had already been made aware of ill-treatment of prisoners by staff. In 2006, an anonymous survey carried out by the State Ombudsperson's Office provided information that ill-treatment was taking place in Zenica Prison. However, the management undertook no action. Such inactivity in the face of clear indications of possible ill-treatment is unacceptable, and raises a serious question as to the capacity of the management of Zenica Prison to deal with this problem.

In this respect, the CPT has taken note of the statement provided by the Director of Zenica Prison, contained within the response received from the authorities of Bosnia and Herzegovina on 31 May 2007. In his statement, the Director refers to the case highlighted above (see paragraph 34), and acknowledges that certain prison officers may have used excessive force and subsequently submitted an inaccurate report on the incident. Nevertheless, instead of the Director taking action and informing the public prosecutor, in the light of his findings, it is proposed that the Federation Ministry of Justice forms a Commission to investigate the alleged ill-treatment. This is totally unsatisfactory.

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<sup>10</sup> See CPT/Inf (2004) 40, paragraphs 81 and 82.

**The CPT recommends that a criminal investigation concerning this matter be carried out by the public prosecutor. Further, the Committee recommends that when allegations of ill-treatment are brought to the attention of prison management, those staff members concerned should be transferred to duties not requiring day to day contact with prisoners, pending the results of the investigation.**

39. The CPT's mandate is not limited to the prevention of ill-treatment inflicted by prison staff. The Committee is also very concerned when it discovers a culture which is conducive to inter-prisoner intimidation and violence. Such a culture was found in Zenica Prison and the CPT's delegation also heard accounts of inter-prisoner violence and bullying in Doboj, Foča, and Sarajevo prisons.

40. The most striking example of inter-prisoner violence encountered during the visit was the incident at **Doboj Prison**<sup>11</sup> on 28 March 2007. On that particular day, a large group of sentenced prisoners attacked and attempted to kill two other prisoners (A and B, respectively). Fearing for their lives, the two inmates took refuge in an office in the administrative section of the prison and barricaded themselves in while the prison staff lost control of the situation. The assailants, attempting to smash their way into the office, only broke off their attack after the two besieged prisoners fired several warning shots from pistols which they had found in the office. The assailants then rioted, causing extensive physical damage to the administrative and sentenced prisoners' sections of the prison, and manifested their discontent on the roof of the prison.

The two besieged prisoners managed to jump out of a window to the outside, where they surrendered their firearms to the police. They were subsequently taken to Banja Luka Prison, where they were interviewed by the delegation. The extent of the injuries to prisoners included fractured bones and multiple bruises. Fatalities were only narrowly avoided.

41. The CPT is concerned that the situation in Doboj Prison was permitted to degenerate to such a degree, when the potential for such an outbreak of violence had been clear for some time. It was evident to the delegation, and confirmed by staff and prisoners, that prisoners in the non-remand section of Doboj Prison were in a position of control. Moreover, the delegation learned that a group of prisoners had been using violence to control other prisoners, with apparent impunity. According to the interlocutors with whom the delegation spoke, the attempted killing of two prisoners by a much larger group was the culmination of long-standing tensions and a history of inter-prisoner violence in the establishment. Staff were fully aware of the situation.

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<sup>11</sup> Situated adjacent to a police station in the centre of Doboj, this relatively small establishment (capacity of 64 sentenced and 40 remand), held, at the time of the visit, 94 inmates of whom 68 were sentenced. The CPT's delegation was informed that the prison, originally designed to hold only first-time offenders serving sentences less than 6 months, now had a very different prisoner profile. According to the report by the Republika Srpska Ministry of Justice on the riot, over half the sentenced prisoners should not have been placed in Doboj Prison. It was evident to the delegation that the prison was not able to provide adequate physical and dynamic security for its prisoner population. For example, it was notable that there were only 2 prison officers on each shift within the section for sentenced prisoners.

Prisoner A was known to be at risk and consequently had been held in the remand section for more than a month. Apparently due to lack of cell space in the remand section, he had been moved back to the section for sentenced prisoners. When he expressed concern about his safety, he had been told that it could not be guaranteed but that he would be transferred back in any case. Such a decision is all the more disturbing given that, in February 2007, he had been stabbed while detained at Foča Prison, and that this apparent attempt on his life was known to staff at Doboj Prison.

When the attack took place a few days after A had been placed in the section for sentenced prisoners, prison staff proved incapable of intervening and protecting the two prisoners who were in life-threatening danger. Such impotence is inexcusable, especially as staff were well aware that the accumulating tensions in the prison were about to escalate. According to the prison management, various reports to the Ministry of Justice detailing the deteriorating situation in the prison went unheeded.

42. In a document dated 25 April 2007, the authorities of the Republika Srpska informed the Council of Europe Office in Sarajevo of the outcome of an internal investigation into the riot of 28 March. The investigation confirmed the course of the events, as described by the CPT above, and acknowledges the absence of staff intervention, although it does not refer to the fact that the prisoners were in a position of control in the sentenced section of the prison. The report also proposes the opening of penal and/or disciplinary proceedings against the main culprits. However, none of the measures proposed serve to clarify the underlying causes of the riot or to identify what action is required to prevent a repetition of such an incident. The contents of this report were largely reiterated in the response of 31 May 2007, received from the authorities of Bosnia and Herzegovina.

**43. The CPT recommends that the authorities take the necessary steps to make Doboj Prison safe for both staff and prisoners through, inter alia, reinforcing the physical and dynamic security of the prison (including by increasing staff numbers). Further, a more rigorous placement policy should be applied to ensure that prisoners with lengthy prison sentences are not sent to Doboj Prison.**

**In addition, the CPT would like to be informed about the measures taken to guarantee the safety of the two prisoners who were transferred to Banja Luka Prison in the aftermath of the riot.**

44. At **Zenica Prison**, the information gathered by the delegation clearly indicated that the establishment is not under the effective control of prison staff. Indeed, in the course of its visit to the prison, the delegation received many indications from both inmates and staff that they felt unsafe. Given the high number of violent incidents between prisoners, which were brought to the attention of the delegation, such a sentiment is understandable.

As an illustration, reference can be made to an incident that took place at about midday on 11 March 2007, when one group of inmates attacked another group, resulting in the hospitalisation of one prisoner. The delegation was told by both inmates and staff that the assault was in retaliation for an attempt to murder a leading member of the attacking group.



All those involved in the attack received disciplinary punishment. However, it is surprising that no criminal investigation had been launched as regards either the attempted murder or the subsequent assault. **The CPT would like to receive an explanation as to why no criminal proceedings were initiated in respect of this case.**

45. Violence and abuse amongst inmates appeared to be a feature of everyday life in Zenica Prison. Such institutionalised violence is facilitated by serious flaws in the organisation, management and infrastructure of the prison, as well as by the lack of purposeful activities. Most of these issues will be discussed below. However, the CPT wishes to highlight two points in particular:

First, the layout of the prison, already described in detail in the CPT's 2003 visit report<sup>12</sup>, with *kolektives* encompassing several dormitories, prevents adequate surveillance and control by staff. At night, the doors of the dormitories remain unlocked, inmates being free to move around the *kolektiv*. This situation is particularly problematic in Pavilion V, where juveniles and adult prisoners are accommodated in joint facilities.

Further, Zenica's status as the only high-security prison in the Federation of Bosnia and Herzegovina makes it difficult to transfer troublesome inmates to other prison establishments.

46. In the CPT's report on the 2003 visit, similar observations were made. In their response, the authorities listed various measures that should be taken to improve the safety of Zenica Prison, including the transfer of juveniles to another prison establishment in the Federation and the upgrading of security in other prisons to enable them to receive high-risk prisoners. Unfortunately, none of these measures have been applied. Further, the intention to transform the Forensic Psychiatric Annexe (FPA) into a high-security unit, which had also been expressed in the response to the CPT's report, has not materialised due to political difficulties in transferring the patients in the FPA out of Zenica Prison.

On the positive side, the delegation was shown a two-storey building under construction that is intended to accommodate inmates under protection. When finished, the unit situated on the upper floor will consist of 16 double-occupancy cells with in-built toilet facilities. The ground floor of the building will become the new sick-bay.

47. In **Foča Prison**, the delegation was told that inter-prisoner violence had been reduced in recent months, following the transfer of a particularly violent inmate to another prison. Nevertheless, the delegation did encounter serious incidents of inter-prisoner violence in the prison, including the stabbing in February 2007, referred to in paragraph 41 above. Further, it was the delegation's understanding that the above-mentioned prisoner might be transferred back to Foča Prison at some time in the future.

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<sup>12</sup> See CPT/ Inf (2004) 40, paragraphs 64 to 68

Foča Prison is the only high-security prison in the Republika Srpska. Despite this status, the prison management regularly resorts to transfers of troublesome prisoners as a means of keeping them under control. These prisoners are thus sent to less secure establishments, where they are prone to stir up even more trouble. According to the director, a group of around 25 particularly troublesome prisoners are currently being circulated around the various prisons in the Republika Srpska. For this particular group, the Foča Prison management has obtained permission to build a special, maximum security facility for a total of 30 inmates; construction is expected to start at the end of August 2007.

48. In **Sarajevo Prison**, fights between inmates, both within the cells and in the outdoor exercise yard, appeared to be a regular phenomenon. In order to increase safety, the outdoor exercise yard had recently been partitioned with fences; however, fights between inmates still took place in the yard. Moreover, as the delegation was informed, safety requirements still rendered it impossible to provide outdoor exercise for all inmates.

Further, in Sarajevo Prison, the protection of vulnerable prisoners was seriously hampered by structural overpopulation; thus, the prison management had little possibility of accommodating inmates needing protection in appropriate conditions.

49. To sum up, the prisons of Zenica, Doboj and, to a lesser degree, Foča and Sarajevo, could be considered as unsafe for prisoners and staff alike. Gangs control significant parts of Zenica and Doboj prisons in particular, rendering life for other prisoners particularly dangerous and disagreeable. In this context, the CPT wishes to recall that the prison authorities duty of care includes the responsibility to protect prisoners from other prisoners who might wish to cause them harm.

50. An integrated strategy to tackle inter-prisoner violence should be developed in the above-mentioned prison establishments. Any such strategy for solving the problem of intimidation and violence between prisoners, if it is to be effective, requires a sufficient number of prison staff to be in a position to exercise their authority in an appropriate manner. Consequently, staff must be alert to signs of trouble and be both resolved and properly trained to intervene when necessary; what is more, prison staffing levels need to be adequate (at night as well as during the day). A key component in the management of inter-prisoner relations is the careful assessment, classification and cell allocation of individual prisoners within the prison population.

Another important tool for preventing inter-prisoner violence lies in the diligent examination by the prison administration of all relevant information regarding alleged inter-prisoner violence which may come to its attention and, where appropriate, the instigation of proceedings. 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. Prison doctors and nursing staff also have an important part to play in this context, as they are often the first people to whom detainees turn after being ill-treated or threatened by fellow inmates.

51. The CPT recommends that the relevant authorities draw up a comprehensive plan to tackle inter-prisoner violence in the prison establishments of Bosnia and Herzegovina. Such a plan should address the specific challenges within each establishment, and should make reference to:

- appropriate staffing levels on all units throughout the day;
- training for staff on prevention and management of incidents of inter-prisoner violence;
- assessment, classification and cell allocation of prisoners;
- detection and follow-up of cases of inter-prisoner violence;
- the development of a meaningful regime.

The CPT would like to receive a copy of such a plan in due course.

52. The planned construction of high-security units in Zenica and Foča prisons should, if properly designed and managed, contribute to rendering both prisons, and the prison system as a whole, safer. The delegation was shown the plans for the Foča facility; no design or other information was available concerning the proposed unit at Zenica Prison.

The delegation was informed that the Foča facility would be a stand-alone unit with 30 single-occupancy cells with a built-in shower and toilet and unit-based recreation facilities. The small walking areas for outdoor recreation were more like walled cages and **should be reviewed**. At the time of the visit, it appeared that both the unit's regime and the criteria and safeguards for the placement of prisoners in the unit had not yet been elaborated.

53. While it is too early for the CPT to comment in detail upon the proposed new facilities at Zenica and Foča Prisons, it nevertheless wishes to draw the attention of the authorities of Bosnia and Herzegovina to a number of important considerations.

54. The CPT considers that prisoners who present a particularly high security risk should, within the confines of their detention units, enjoy a relatively relaxed regime by way of compensation for their severe custodial situation. In particular, they should be able to meet their fellow prisoners in the unit and be granted a good deal of choice about activities (thus fostering a sense of autonomy and personal responsibility). Special efforts should be made to develop a good internal atmosphere within high-security units. The aim should be to build positive relations between staff and prisoners. This is in the interests not only of the humane treatment of the unit's occupants but also of the maintenance of effective control and security and of staff safety.

In this respect, it is also important that prison staff appointed to work in a high-security unit are provided with the necessary skills and knowledge to work in such an environment, and that there is a multi-disciplinary team in place to manage and support the prisoners placed in the unit.

Further, the existence of a satisfactory programme of activities is just as important - if not more so - in a high security unit than on normal location. It can do much to counter the deleterious effects upon a prisoner's personality of living in the bubble-like atmosphere of such a unit.

Moreover, there must be a clear legal basis for the placement of a prisoner in a high-security unit, and every prisoner in respect of whom a special security measure is envisaged should be given an opportunity to be heard on the matter before a formal decision is taken. Further, the prisoners concerned should always receive a copy of the decision, not only concerning the initial imposition of such a placement but also the subsequent renewals thereof. They should also be required to sign an attestation that they have received the decision. In addition, an appeal against the decision of placement in a high security unit should be possible.

**55. The CPT recommends that the relevant authorities establish, as soon as possible, high-security units in Zenica and Foča prisons, making use of existing international good practice with respect to the design and management of such facilities.**

**Further, it recommends that the relevant authorities take into account the above remarks in the process of elaborating the regime and of developing the legal provisions and regulations under which these facilities will operate.**

### **3. Staffing**

56. The overall numbers of prison staff at **Foča** and **Zenica prisons** were 211 and 513 respectively, which at first glance might appear more than sufficient. However, the reality on the ground was very different, due to a combination of factors such as the distribution of staff, the layout of the prisons and the large number of vacancies (for example, Zenica Prison had 130 vacancies, which included 60 prison officers and 16 treatment staff).

The low staffing levels were evident, for instance, in Pavilion I of Zenica Prison, where there were three or four prison officers responsible for some 395 inmates at night and, in Building II of Foča Prison, where three prison officers were responsible, at night, for supervising all 223 inmates.

Moreover, it appeared to the delegation that even when the vacancies for prison officers at Zenica and Foča Prisons were filled, the total numbers would still be too low to provide adequate care and protection for inmates. **The CPT recommends that the authorities of Bosnia and Herzegovina carry out an assessment of the staffing levels required to provide a safe environment for staff and inmates alike in Foča and Zenica prisons. Further, all vacancies should be filled as a matter of urgency.**

57. In **Sarajevo Prison**, staffing levels had improved as compared with the previous CPT visit; a total of 20 new prison officers had been recruited.

58. It is self-evident that the integrity of staff is a prerequisite for keeping prisons safe. In several prisons the delegation noted that staff were dismissed if caught smuggling drugs, mobile telephones and other contraband into the prison. At the same time, it should be acknowledged that prison staff fulfil tasks that make them likely targets for external pressure to traffic illicit items into a prison. A proper policy on staff integrity should address such risks and ensure guidance, when necessary. Other relevant issues such as recruitment, internal controls and supervision should be included. **The CPT recommends that the relevant authorities devise a comprehensive staff integrity policy for prison staff.**

#### 4. Material conditions

59. The material conditions in **Zenica Prison** were similar to those described in the CPT's report on the 2003 visit; the pavilions visited by the delegation were generally in a reasonable state of repair. The remand section on the ground floor of Pavilion II had been recently renovated and offered appropriate conditions; the cells were equipped with a chair, a table, a bed and a television.

60. Some positive developments could also be observed at **Sarajevo Prison**; the visiting rooms had been refurbished, a functioning heating system installed and a proper call system put in place in parts of the prison.

However, due to the bad state of repair of the old building and to overcrowding, the conditions in Sarajevo Prison remained generally very poor. In certain sections, some inmates did not have their own bed and had to sleep on a mattress on the floor. Further, the three segregation cells (73b, 77 and 80) were in a particularly poor condition; cell 73b was deprived of natural light and ventilation by a shutter which completely covered the window, and prison staff said that they would often remove the single light bulb, as a self-harm prevention measure, thus rendering the cell totally dark. Moreover, the toilet facilities emitted a pervasive stench, and the foam mattress on the metal bed was blackened and had chunks missing, as it had been set alight by an inmate some time before. Cells 77 and 80 were in a similarly poor condition.

With reference to Article 8, paragraph 5, of the Convention, the CPT's delegation requested that the segregation cells be taken out of use immediately. By letter of 31 May 2007, the authorities of Bosnia and Herzegovina informed the CPT that these cells were no longer in use pending their refurbishment.

**The CPT recommends that the authorities of Bosnia and Herzegovina take immediate steps to ensure that every inmate in Sarajevo Prison is provided with his/her own bed, and with clean bedding. More generally, urgent steps should be taken to ensure that this establishment operates within its official capacity.**

61. As stated above, **Foča Prison** had two similar adjacent four-storey accommodation blocks, Buildings I and II. At the time of the visit, Building I only contained the medical ward as the rest of the building was still in the process of being renovated, but it was planned that a drug-free unit would also be established within this building.

Building II has two *kolektives* on each of the four floors: a large *kolektiv* and a smaller *kolektiv*. The delegation visited *kolektiv* 22 on the third floor and *kolektiv* 21 on the second floor. *Kolektiv* 22 consisted of 48 beds, of which 37 were occupied at the time of the visit. The 48 beds were spread over four dormitories: two dormitories of around 50 m<sup>2</sup> each had 14 beds and two dormitories of 37 m<sup>2</sup> had 10 beds each. *Kolektiv* 21, on the second floor, had a 50 m<sup>2</sup> dormitory of 14 beds and a seven-bed dormitory of 25 m<sup>2</sup>. In addition, both *kolektives* had sizeable common rooms which contained a television set, tables, benches and lockers (in which personal items and food could be stored). It should be emphasised that prisoners could move around within their *kolektiv* at all times. The doors to these *kolektives* were locked most of the day and the staff remained outside.

## 5. Regime

62. The regime for remand prisoners remained particularly poor. In Sarajevo Prison, inmates were offered neither work nor recreation, and it was only because they were accommodated in multi-occupancy cells that inmates were not fully deprived of human contact. Nevertheless, even allowing for outdoor exercise, visits from lawyers and taking a shower, they remained locked up for some 23 hours per day. At Zenica Prison, inmates on remand were held in single-occupancy cells and could only associate with other inmates during outdoor exercise, which was often curtailed to less than one hour per day. In consequence, they would spend more than 23 hours a day in isolation, with a few hours of television and a newspaper with which to occupy themselves; books were apparently not allowed.

In this respect it should be noted that Article 157 of the Criminal Procedure Code of the Federation of Bosnia and Herzegovina provides for “at least two (2) hours of walking in the open air daily” and the right to purchase inter alia, books ‘at his own expense’. It appeared to the delegation that the law was not being properly adhered to in either Zenica or Sarajevo prisons.

**63. The CPT reiterates its recommendation that the relevant authorities take steps as a matter of urgency to radically improve activities for remand prisoners. The aim should be to ensure that all prisoners are able to spend a reasonable part of the day outside their cells, engaged in purposeful activities of a varied nature (group association activities; work, preferably with vocational value; education; sport).**

**Further, the CPT calls upon the relevant authorities to ensure immediately the proper application of the Criminal Procedure Codes of Bosnia and Herzegovina, whereby all persons on remand should be offered two hours of outdoor exercise every day<sup>13</sup>.**

64. At the time of the visit, 455 sentenced prisoners in Zenica Prison were offered work of some sort; most were employed in the metal workshop. A variety of courses and schooling was also offered to prisoners. In Foča Prison, 189 inmates worked, including in metallurgy. In both Zenica and Foča prisons, commendable efforts were being made to offer activities to inmates. For instance, in Foča Prison, a number of workshops were in operation, such as journalism, computer and carving. Further, inmates could regularly watch movies or attend special events, such as football matches, karaoke and chess matches; education up to secondary level was also possible.

In both prisons, inmates were offered at least two hours of outdoor exercise daily.

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<sup>13</sup> See Article 143 of the State Criminal Procedure Code, Article 157 of the Federation of Bosnia and Herzegovina Criminal Procedure Code and Article 200 of the Republika Srpska Criminal Procedure Code.

65. The CPT welcomes the efforts being made at Foča and Zenica prisons to offer a meaningful regime for sentenced prisoners. As well as being a fundamental element of attempts to prepare prisoners for their re-integration into society, purposeful activities contribute to a positive atmosphere in prison and assist in minimising inter-prisoner violence. **The CPT encourages the authorities to further increase the number of activities offered to inmates in Foča and Zenica prisons.**

## 6. Health-care services

66. In 2004, two international experts commissioned by the Council of Europe assessed the state of prison health-care in various prisons in Bosnia and Herzegovina, including Foča, Sarajevo and Zenica<sup>14</sup>. The report contains pertinent recommendations on a number of subjects, including training for health-care staff; personal and environmental hygiene; prevention of communicable diseases; the role of doctors with respect to disciplinary procedures; and the development of a prison drugs policy. The findings from the 2007 visit clearly show that few of the recommendations contained in the assessment report or in the CPT's report on its 2003 visit have been implemented. A reason for this might be that prison health-care at the level of policy development and inspection lacks a powerful advocate. Potentially, the Ministries of Health of both Entities could play such a role. For a start, there needs to be much greater co-ordination of health-care issues in prisons between the Ministries of Health and Justice.

**The CPT recommends that the relevant authorities take the necessary steps to improve prison health-care services, based upon the guidelines laid down in the 2004 assessment report by the Council of Europe. Further, the involvement of the Entity Ministries of Health in the development of prison health-care should be enhanced.**

67. Progress in the provision of health-care in prisons was noted in certain specific areas. For instance, in Zenica Prison, as well as in Sarajevo and Foča prisons, newly arrived prisoners were medically screened by a doctor or a technician (male nurse). Further, the construction of a new health care unit in Zenica Prison is commendable. Another positive development was that health-care staffing levels in Sarajevo Prison had improved since the 2003 visit. At the time of the visit, the prison was employing a general practitioner, a dentist and two technicians, and there were weekly visits from a psychiatrist, which will apparently be increased to a full-time presence in the near future.

In Zenica Prison, on the contrary, health-care staffing levels remained inadequate. In particular the establishment had one full-time doctor for some 779 inmates. Further, there were 13 technicians and 14 medical specialists (including a dentist, a dermatologist, a surgeon and a psychiatrist) who visited the Prison as required.

Foča Prison employed one medical doctor, who visited the prison for three to four hours each weekday, and three technicians; a dentist visited three times a week and a psychiatrist once a month. The presence of the medical doctor was insufficient for an establishment of almost 300 inmates.

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<sup>14</sup> "An assessment of health care in the prisons of Bosnia and Herzegovina"; Joint CoE-EC Programme for BiH – implementation of post-accession commitments.

**The CPT recommends the recruitment of an additional medical doctor for Zenica Prison and the increased presence of a doctor at Foča Prison.**

68. In the prisons visited, the medical files consisted of sheaves of paper bundled together, their quality varying from prison to prison. In Foča, the files appeared to be meticulously kept, while at Zenica the information in the files was incomplete, as the doctor explained that he would not always make a written note of his consultations with a prisoner. The delegation made similar observations in Sarajevo Prison, where the record-keeping of the prison doctor was deficient. Notes on the initial medical screening were poor in all the prisons visited.

69. The CPT considers that the record drawn up following a medical examination of a newly admitted prisoner should contain:

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

**The CPT recommends that steps be taken to ensure that the practice in Bosnia and Herzegovina is brought into line with the above considerations.**

70. Despite the prevalence of drug addiction in the prisons visited, there was no coherent and comprehensive drugs policy. However, certain elements of what could eventually become a proper drugs policy, such as urine tests, did exist and, both at Foča and Zenica prisons, the delegation was informed of plans to establish drug-free units. **The CPT recommends the development of a comprehensive drugs policy for the prisons in Bosnia and Herzegovina, as part of a national strategy.**

71. The development of a proper drugs policy should be a priority, as drugs appeared to be easily available inside the prisons visited, sometimes with serious consequences. For instance, at Zenica Prison, the delegation examined the case of a death in custody on 13 November 2006, apparently caused by heroin intoxication. Initially, the delegation was led to believe that this inmate had died in the health-care unit, where he had been placed following his discharge from hospital. However, it transpired that prior to his death, the inmate had been transferred from the health-care unit to the padded cell in Pavilion II, where he died within a few hours of his discharge from hospital. The prosecutor has apparently opened an investigation into the death of this prisoner.



During the visit, the CPT's delegation requested the results of the investigation as well as a copy of the autopsy report. To date neither the report of the prosecutor nor the autopsy report has been received by the CPT. However, by letter of 31 May 2007, the authorities of Bosnia and Herzegovina informed the CPT that a Commission of two psychiatrists and a psychologist had looked into the death of this inmate. In its conclusions, the Commission stated that the inmate died of a drug overdose and that all medical staff involved in this case had acted appropriately. However, conclusion N° 5 of the report seems to suggest that the inmate died after ingesting illicit drugs following his return from the hospital, while placed in either the health-care unit or the padded cell.

On the one hand, such a finding would be worrying as it would indicate that staff at Zenica Prison are unable to protect even an inmate recovering from an overdose, accommodated in a care facility, from being supplied with illicit substances. The padded cell is under video-surveillance and the camera recordings could have been very helpful in determining the exact course of events that night; however, the delegation was informed that the cassette had apparently been lost. On the other hand, conclusion No. 5<sup>15</sup> cannot be substantiated on the basis of the data provided; the presence of morphine in the stomach is not a sufficient basis to conclude that it was due to recent oral ingestion. Further, it is rather unconvincing that the prisoner stated he was feeling well at 3.50 a.m. and fifteen minutes later he was found unconscious, and subsequently declared dead.

**The CPT would like to receive the report on the investigation by the public prosecutor as well as a copy of the autopsy and toxicology reports. Further, the CPT recommends that the findings of the Commission referred to above be transmitted to the prosecutor responsible for carrying out the investigation into the death.**

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<sup>15</sup> Conclusion No. 5 of the Independent Professional Commission report of 18 May 2007 states, "During the reanimation of the patient an adequate antidote was used – Naloxone in infusion, in dose prescribed, which caused stabilization of the vital functions, regaining consciences and establishment of communication with the deceased. As a confirmation of this conclusion is also the report of the toxicology analysis according to which there was no heroin (diacetylmorphine) nor its metabolites, and they were found in the vomited material that was collected just after the death. This imposes the possibility of oral heroin abuse (trough mouth), and after the therapeutic intervention in the Emergency centre, which is most likely the immediate cause of death."

## 7. Discipline, segregation, and means of restraint

72. Disciplinary measures against prisoners on remand in the Federation are regulated in the Criminal Procedure Code, attributing the power to discipline an inmate to the judge. The disciplinary measures available to the judge under Article 159 of the Code appear to be limited to the restriction of visits and correspondence, and Article 159 (3) provides for the right of appeal against a disciplinary sanction imposed. The Code indicates that restriction of outside contacts should follow after a disciplinary offence, even when the offence committed is not related to misuse of such outside contacts. The CPT has reservations concerning such a restriction and **would like to receive the comments of the authorities on this matter**. Moreover, during the delegation's visit to Sarajevo Prison, it was informed that a judge could also decide that a remand prisoner should undergo solitary confinement in accordance with the House Rules (internal regulations) for sentenced prisoners. **The CPT would like to receive a detailed explanation of the disciplinary measures applicable to prisoners on remand.**

73. The situation regarding the discipline of sentenced prisoners has not changed since the 2003 visit (see CPT/Inf (2004) 40, paragraphs 109 and 100). In the Republika Srpska, three types of disciplinary measures may be imposed on inmates: a reprimand; deprivation of privileges and solitary confinement up to a maximum of 30 days; further, the total length of solitary confinement in one year should not surpass six months. In the Federation, a sentenced prisoner might be disciplined with a (public) reprimand, fine or solitary confinement lasting up to 20 days; further, the total length of solitary confinement in one year should also not surpass six months. While the delegation noted that no inmates, in the prisons visited, had spent six months in one year in solitary confinement, the CPT would have serious concerns should inmates be placed in isolation for such lengthy periods.

In both Entities, the legislation provides for a hearing of the prisoner and an appeal procedure. In the Republika Srpska, the disciplinary measure is pronounced by the Director, and an inmate can appeal to the Ministry of Justice. Further, at the request of the prisoner, a legal representative may assist the detainee during the hearing. In the Federation, each prison establishes a disciplinary committee to take decisions on disciplinary measures. The law provides that the inmate may appeal to the Director if he or she disagrees with the disciplinary measures imposed.

The CPT is of the opinion that prisoners should have the right to appeal to an authority outside the prison establishment concerned against the imposition of a disciplinary measure; this is currently not the case in the Federation. **The CPT recommends that the relevant authorities in the Federation take the necessary steps to ensure that a prisoner is guaranteed the right of appeal to an external body.**

74. Zenica and Foča prisons had also put in place a specific regime for particularly troublesome prisoners.

In Zenica Prison, Articles 173 and 174 of the House Rules provide for difficult prisoners to be accommodated on C-ward of Pavilion II for a minimum period of one month and a maximum period of three months. A decision on such a placement is taken by the head of the treatment department, after consultation with the head of security, but it is not communicated in writing to the prisoner concerned and no appeal is possible. At the time of the visit, there were eight prisoners on C-ward. The legal basis for this measure in the Federation Law on the execution of criminal sanctions was unclear to the delegation.

In fact, this measure has already been described and commented upon in the report on the CPT's 2003 visit (see CPT/ Inf (2004) 40, paragraph 111) but no follow-up action appears to have been taken. The Committee would like to recall that it is self-evident that a measure of segregation should not be imposed for any longer than the risk which a particular prisoner presents makes necessary. Consequently, there must be regular reviews of the decision to impose such a measure. Further, prisoners should as far as possible be kept fully informed of the reasons for the imposition of the measure and, if necessary, its renewal.

**75. The CPT recommends that the relevant authorities ensure that:**

- **a prisoner placed in segregation or in respect of whom such placement is extended, is informed in writing of the reasons therefor (it being understood that there might be reasonable justification for withholding from the prisoner specific details related to security);**
- **a prisoner in respect of whom a segregation measure is envisaged, is given an opportunity to express his views on the matter;**
- **the placement of a prisoner in segregation is fully reviewed at least once every three months;**
- **prisoners have the right to appeal to an authority outside the prison establishment concerned against the imposition or extension of a segregation measure;**

**Further, a clear procedure should be established to ensure that prisoners are made aware of the above rights and safeguards.**

76. In Foča Prison, troublesome prisoners were placed in a special unit under "heightened supervision", a measure provided for under Article 178 of the Republika Srpska Law on the execution of sentences. Placement in the Special Unit could be for a maximum period of three months upon the decision of the director, with the approval of the Minister of Justice. The Minister would decide to prolong the measure by a further three months.

At the time of the visit, one prisoner was placed under heightened supervision; he was accommodated in the so-called Special Unit, adjacent to the solitary confinement wing. This prisoner received one hour of outdoor exercise every day, was allowed to go to the gym twice a week and could watch television as much as he pleased. With respect to the measure of heightened supervision the CPT considers that prisoners subjected to such regime should be entitled to the same safeguards as those referred to above. **The CPT recommends that the Republika Srpska authorities ensure that all prisoners placed on heightened supervision benefit from the safeguards enumerated in paragraph 75 above.**

77. As to the use of restraint, the delegation met a prisoner in Foča Prison who stated that some months previously, while he was placed in the Special Unit, both his wrists had been handcuffed to his bed for a period of a few days, as a measure to prevent him from committing an act of self-harm. The prisoner alleged that the cuffs were only released intermittently to allow him to go to the toilet or to have a short walk in the corridor. As the use of handcuffs was not registered, the CPT could not verify the duration of their use. Nevertheless, the director of Foča Prison confirmed that he had authorised the use of handcuffs in respect of this particular prisoner.

In the view of the CPT, restraining inmates at risk of self-harm by handcuffing them to a bed is not acceptable. Alternative means exist of mechanically restraining a prisoner, which are more appropriate and cause fewer injuries. In those rare cases when resort to instruments of physical restraint is required, the prisoner concerned should be kept under constant and adequate supervision. Further, instruments of restraint should be removed at the earliest possible opportunity; they should never be applied, or their application prolonged, as a punishment. Finally, a record should be kept of every instance of resort to means of restraint against prisoners.

**The CPT recommends that the relevant authorities issue clear guidelines to all prisons to ensure appropriate mental health assessment and care for persons at risk of self-harm or suicide. These guidelines should cover the elements listed above, including the means of restraint authorised and the proper recording of their use. The Committee would like to receive a copy of the guidelines.**

78. As already indicated in the report on the 2003 visit, the scrupulous recording of any use of solitary confinement or of instruments of physical restraint is a fundamental safeguard against possible abuse, as well as representing an essential tool of good management.

The information gathered by the delegation indicated that there was much room for improvement in this area at certain of the establishments visited. Besides the lack of recording of the use of handcuffs in the Special Unit of Foča Prison referred to above, the delegation noted that no comprehensive register existed for either the Special Unit or the solitary confinement wing, which made it difficult to monitor their use. In Zenica Prison, the records indicated that in the course of 2005, 2006 and 2007 there were only seven incidences of the use of physical restraint. However, the delegation discovered that at least two incidents in March 2007 had not been properly recorded; in one case pepper spray had been used against inmates who were allegedly already under control.

**The CPT recommends that appropriate steps be taken to ensure that any placement in a solitary confinement or segregation cell and any use of instruments of physical restraint (whether or not this is in a medical context) is duly recorded, with a reference to the grounds and the length of time involved. Preferably, specific registers should be established for the recording of such information (in addition to a record being placed in the individual file of the person concerned).**

79. The delegation noted that prison officers in both Foča and Zenica prisons had access to pepper spray. In Foča Prison, pepper spray was not part of the standard equipment of prison officers and was therefore not carried into the prison. However, in Zenica Prison pepper spray was handed to all prison officers at the beginning of their shift. The CPT delegation requested the authorities of Bosnia and Herzegovina to inform the Committee about measures taken to introduce proper guidelines and recording procedures. From the letter sent to the CPT by the authorities on 31 May 2007, it transpired that no specific instructions were available with respect to the use of pepper spray, except that such use should be reported to the Ministry of Justice, which did not always happen in practice.

Pepper spray is a potentially dangerous substance and should not be used in confined spaces. Even when used in open spaces the CPT has serious reservations; if exceptionally it needs to be used, there should be clearly defined safeguards in place. For example, persons exposed to pepper spray should be granted immediate access to a medical doctor and be offered an antidote. Pepper spray should never be deployed against a prisoner who has already been brought under control. Further, it should not form part of the standard equipment of a prison officer.

**The CPT recommends that the authorities of Bosnia and Herzegovina draw up a clear directive governing the use of pepper spray, which should include, as a minimum:**

- **clear instructions as to when pepper spray may be used, which should state explicitly that pepper spray should not be used in a confined area;**
- **the right of prisoners exposed to pepper spray to be granted immediate access to a doctor and to be offered an antidote;**
- **the qualifications, training and skills of staff members authorised to use pepper spray;**
- **an adequate reporting and inspection mechanism with respect to the use of pepper spray.**

## 8. Complaints and inspection procedures

80 In the prisons visited, inmates could lodge complaints with prison staff, including the director. In Foča Prison, envelopes could be obtained from prison staff for the purpose of making complaints which could subsequently be deposited in a mail box that was collected on a daily basis; the complaints received were recorded in a book. In addition, an inmate could request to speak to the director either by sending him a note or by addressing the director during one of his bi-weekly tours through the prison. The complaints procedure was posted on the walls of the *kolektives*.

In Sarajevo Prison, neither envelopes nor a closed complaints box were available to prisoners and, in Zenica Prison, few inmates appeared to be aware of the possibility to lodge complaints as no information was given to inmates. For instance, the information leaflet handed out to remand prisoners in Zenica Prison makes no reference to complaints. In this respect, the situation has not evolved since 2003.

81. The Ombudspersons in both Entities were also mandated to receive complaints from inmates. However, few prisoners seemed to avail themselves of this possibility. A particular impediment to corresponding with the Ombudsperson Offices was that correspondence in all the prisons visited, including with official complaints bodies and the Ministry of Justice, would be handed over to staff in an open envelope in order to be checked for contraband. **The CPT recommends that the authorities of Bosnia and Herzegovina take the necessary steps to ensure the confidentiality of correspondence of prisoners with outside judicial and complaints' bodies.**

82. The CPT attaches particular importance to regular visits to all prison establishments by an independent body with the authority to receive – and if necessary, take action on – prisoners' complaints, and to visit the premises. The Entity Ombudspersons, as well as the State Ombudsperson, are also mandated to carry out on-site inspections. Apparently, in the Republika Srpska, the Entity Ombudsperson did indeed carry out such inspections, whereas, in the Federation, such a power appears rather underdeveloped; for instance, in Zenica the prison management could not recall a recent prison inspection by the Ombudsperson's Office.

The CPT's delegation was told that, following the merger of the three Ombudsperson Offices in the course of 2007, a special department dedicated to prison monitoring would be established. **The CPT encourages the establishment of such a specialised department, especially in the absence of an independent prisons inspectorate and would like to be informed about the time-schedule of the implementation of the decision to establish a special department dedicated to prison monitoring.**

## C. Psychiatric establishments

### 1. Preliminary remarks

83. The CPT's delegation undertook a follow-up visit to **Sokolac Psychiatric Hospital**, which it had previously visited in April/May 2003 and in December 2004 (see CPT/Inf (2004) 40, paragraph 117). In the course of the 2007 visit, the delegation focused on the "locked" Male Acute Ward and the Forensic Psychiatric Unit (FPU), which comprises a "locked" ward and an "open" ward. On 20 March 2007, there were 26 patients registered on the Male Acute Ward and 85 patients in the FPU (27 of whom were placed on the locked ward).

84. The CPT's delegation also undertook a follow-up visit to **Zenica Prison Forensic Psychiatric Annexe (FPA)**, which it had previously visited during the 2003 periodic visit (see CPT/Inf (2004) 40, paragraphs 84 to 100). In the report on the 2004 ad hoc visit, the CPT made reference to the continuing impasse surrounding the relocation of the Annexe (see CPT (2005) 4, paragraph 22). To date, no solution has been found (see however section 4 below).

85. The delegation received no allegations of ill-treatment of patients by staff at Sokolac Psychiatric Hospital; nor did the delegation hear of any recent incidents of inter-patient violence. Nevertheless, staff acknowledged that, on occasion, patients on the Male Acute Ward were found with bruises on their body, and it was assumed that they were caused by other patients. Moreover, the overcrowded conditions in the locked ward of the FPU, combined with the general lack of a staff presence within the secure area, the apparent ease with which illicit substances could be passed to patients through the barred metal gate giving access to the ward, and the fact that patients spend such long periods confined to the ward, increases significantly the risk of inter-patient violence and other related disturbed behaviour. **The CPT recommends that the relevant authorities take the necessary measures to reduce the risk of inter-patient violence in the Male Acute Ward and the FPU at Sokolac Psychiatric Hospital, taking into consideration the above remarks and the subsequent sections of the report.**

As regards Zenica Prison FPA, the delegation heard no allegations of ill-treatment of patients by staff nor did it hear of any recent incidents of inter-patient violence.

## 2. Sokolac Psychiatric Hospital

### a. living conditions

86. The delegation noted that some attempts had been made to improve the living conditions within the Male Acute Ward. The ward was generally much cleaner and had recently been painted, some of the broken windows had been replaced and doors had been fitted with observation panels. One former dormitory had been converted into a pleasant visiting room. However, the dormitories continued to be crowded and the state of the mattresses and bedding could be improved, as could the conditions in the day-room. Also, some of the windows in the sanitary facilities and dormitories were broken.

87. As regards the Forensic Psychiatric Unit, it should however be noted that on 18 April 2006, the former FPU building had been destroyed by fire (apparently started by patients) and that the FPU's patients were subsequently transferred to the small two-storey admission building, that has been converted in a makeshift manner to accommodate them.

88. The locked ward of the new Forensic Psychiatric Unit consisted of a small day-area and three dormitories, two toilets, two showers and one basin. Conditions in the locked ward were extremely cramped and overcrowded, holding up to 30 patients or more in three small dormitories<sup>16</sup>; there was little space between the beds and, at times, groups of three patients had to share two beds. Moreover, the dormitories were bare and there was no personal lockable space. For lengthy periods of the day, patients were locked out of their dormitories and confined to a narrow corridor and the small day-area, where some patients had to sit or lie on the floor due to a lack of seating.

The only outdoor exercise facility available to patients on the locked ward was a cage that had been attached to the side of the building, into which all patients were placed during good weather but which did not afford enough space for them to walk around properly. Moreover, the cage did not provide any means of rest, such as a bench, and there was no shelter from inclement weather.

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<sup>16</sup> 9 beds in 27 m<sup>2</sup>; 8 beds in 20 m<sup>2</sup>; and 10 beds in 28 m<sup>2</sup>.



89. The CPT recommends that the authorities of Bosnia and Herzegovina take the necessary steps to improve the living conditions in the FPU and the Male Acute Ward, notably:

- to ensure in the dormitories occupancy levels of an acceptable level (at least 4 m<sup>2</sup> living space to be provided for each patient);
- to offer better conditions as regards equipment and decoration, in the day-rooms and dormitories of the respective locked units;
- to replace all missing window panes;
- to provide all patients with personal lockable space in which they can keep their belongings;
- to review the arrangements for outdoor exercise for patients on the locked ward of the FPU in order that all patients may benefit from such exercise in a reasonably spacious setting, which should also provide shelter from inclement weather.

90. Despite the urgent recommendations made by the CPT in its reports on the 2003 and 2004 visits (see CPT/Inf (2004) 40, paragraph 11), patients and staff continued to be placed at risk by having to eat and work in the hospital refectory, which was in a state of terminal structural collapse. The delegation requested the relevant authorities to provide information, by 31 May 2007, about the measures being taken to remove this danger. However, the authorities of Bosnia and Herzegovina did not address this matter in their response of 31 May 2007. **The CPT calls upon the relevant authorities to take immediate steps to rectify this dangerous situation.**

b. staff and treatment

91. Staffing levels on the FPU had improved since the 2004 visit, with the appointment of a second psychiatrist, who had taken over responsibility for patients on the open ward, and the presence of a psychologist and a social worker; further, there were now two nurses on duty during the day on both the open and locked wards. The number of guards remained the same, two during the day shift and one or two at night and during weekends. Although a welcome improvement, the numbers of staff remained inadequate. Moreover, there was minimal interaction between staff and patients; on the locked ward, staff would usually only enter the ward at meal times and when it was necessary to dispense medication.

On the Male Acute Ward, there had been no staff developments since the 2004 visit. While the nursing complement might be reinforced, a second psychiatrist should be appointed to this ward.

The current staffing levels were not sufficient to allow for the establishment of a fully fledged therapeutic environment, consisting of a wide range of physical, psychological, social and occupational activities.

**The CPT recommends that the relevant authorities carry out a review of the staffing levels within Sokolac Psychiatric Hospital, with a view to reinforcing the presence of qualified staff.**

92. As in other health-care services, it is important that the different categories of staff working in a psychiatric unit meet regularly and form a team under the authority of a senior doctor, with a view to addressing the therapeutic needs of individual patients. This will allow day-to-day problems to be identified and discussed, and guidance to be given. Moreover, the quality of treatment could benefit significantly from these regular staff meetings. **The CPT recommends that the authorities set up such procedures in parallel with the staff reinforcement.**

93. The delegation noted that there had been little in the way of development of the treatment and care of patients at Sokolac Psychiatric Hospital. No individual treatment plans were in evidence in the records examined. For patients on the FPU and the Male Acute Ward, pharmacotherapy continued to be the sole form of treatment applied. Occupational therapy was offered to patients on the open ward of the FPU and to patients on the Acute Male Ward, albeit only on a very limited basis. However, only one patient from the locked ward of the FPU was offered the possibility of occupational therapy once a week. Further, patients regularly spent 22 hours a day inside the locked ward of the FPU and, when outdoor exercise was not offered, they remained on the ward around the clock. In the absence of any structured treatment programme, the main diversion for patients was watching television in the small day-area.

**The CPT recommends once again that individual treatment plans be established for each patient in the units visited and increased efforts be urgently made to develop psycho-social rehabilitation, including programmes on the prevention of re-offending for patients in the Forensic Psychiatric Unit.**

94. With regard to medication, the delegation was informed that there was a sufficient quantity, but not enough quality or variety, particularly of appropriate psychotropic medication. The units' psychiatrists confirmed that occasional interruptions to patients' medication - due to financial or supply difficulties - had resulted in the deterioration of the mental state of some patients. **The CPT recommends that steps be taken to ensure that the medication prescribed is in fact provided, and that a regular supply of appropriate medicines is guaranteed at all times.**

c. restraint of agitated or violent patients

95. In the report on the 2004 ad hoc visit, the CPT commented that the provisions on the restraint of patients set out in the Law on Protection of Persons with Mental Disorders broadly conformed with the CPT's standards (see CPT (2005) 4, paragraph 19). However, in the course of the 2007 visit, the delegation noted that, although a register to record incidents of restraint was now being used, there was still no written policy on the restraint of violent or agitated patients at Sokolac Psychiatric Hospital. The involvement and support of both staff and management in elaborating a restraint policy is essential. Such a policy should make clear which means of restraint may be used, under what circumstances they may be applied, the practical means of their application, the supervision required and the action to be taken once the measure is terminated.

The policy should also contain sections on other important issues such as: staff training; complaints policy; internal and external reporting mechanisms; and debriefing. In the CPT's opinion, such a comprehensive policy is not only a major support for staff, but is also helpful in ensuring that patients and their guardians or proxies understand the rationale behind a measure of restraint that may be imposed.

**The CPT recommends that such a policy on restraint be drawn up forthwith.**

96. The delegation heard that, despite specially designed leather straps now being available at Sokolac Psychiatric Hospital, staff still openly resorted to the use of handcuffs when it became necessary to restrain a patient. On such occasions, patients would be fixated without direct and continuous supervision, to their beds or heating pipes. The CPT has stressed, on both its previous visits, that metal handcuffs are a totally unacceptable means of restraining patients in a health-care establishment. At the end of the visit, the delegation requested that all handcuffs be removed from the hospital by 31 May 2007, and that patients who require restraint by other means are always the subject of direct and continuous supervision.

By letter of 31 May 2007, the authorities of Bosnia and Herzegovina informed the CPT that a decision had been issued banning the use of handcuffs. The CPT welcomes this action, **and would like to receive confirmation that all handcuffs have been removed from the premises of Sokolac Psychiatric Hospital.**

d. safeguards

97. In the report on the 2004 visit, the CPT commented in detail on the legal framework for involuntary placement in a psychiatric establishment (see CPT (2005) 4, paragraphs 23 to 29).

As far as criminal proceedings involving mentally ill persons are concerned, the findings of the 2007 visit indicate that the social work centres<sup>17</sup> are still not equipped to fulfil the tasks assigned to them by the 2003 criminal legislation. Consequently, the delegation heard that persons suspected or accused of a criminal offence, who were being held in a remand prison or a psychiatric institution at the time of a court finding of mental incapacity, were being held in "temporary custody" in excess of the prescribed legal limits, or released despite the potential risks to public safety. Moreover, no solution appears to have been found for those persons in respect of whom the previously applicable measure of "mandatory psychiatric treatment and placement in a health institution" was ordered prior to the entry into force of the 2003 criminal legislation.

**The CPT would like to receive information on the legislative and institutional measures being taken to resolve these shortcomings.**

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<sup>17</sup> Sections 399 and 400 of the Criminal Procedure Code of the Republika Srpska set out that a case involving a person who commits a crime in a state of mental incapacity shall be closed and the person referred to the social welfare body.

98. In respect of involuntary placement on a civil basis in the Republika Srpska (where Sokolac Psychiatric Hospital is located), it appeared that the Commission for Protection of Persons with Mental Disorders was still not operational. This Commission is responsible under the 2004 Law for supervising issues such as consent to treatment, the effectiveness of the right to appeal against involuntary placement, information pertaining to patients' rights and the nature and side effects of the treatment proposed, etc. In addition, the Commission is empowered to receive complaints from, among others, patients and to act upon them. **The CPT recommends that urgent steps be taken to ensure the Commission becomes operational in the immediate future.**

99. At the Male Acute Ward of Sokolac Psychiatric Hospital, the CPT's delegation was informed that patients brought to the hospital for admission, usually by police officers, were given the choice of voluntary hospitalisation. If patients signed a blanket consent form for hospitalisation and treatment, they were told that their placement would be for an initial period of two to three weeks. However, if the patients declined voluntary admission to the hospital - in which case the prosecutor would be informed within 24 hours and the patient would have the right to appeal the placement - they were informed that the placement would last at least three months. Several patients stated that they had been coerced to sign blanket consent forms to hospitalisation and treatment. Therefore, the delegation was not surprised to learn that only one of the 25 patients on the locked Male Acute Ward was admitted on an involuntary basis, when in reality, virtually all the patients should be categorised as involuntary. **The CPT recommends that the procedures for admission to the Male Acute Ward be reviewed and that all persons be admitted to this ward in accordance with the law.**

100. The delegation also noted that treatment could be administered at the hospital without the patient's consent. In the CPT's view, patients should, as a matter of principle, be placed in a position to give their free and informed consent to treatment. The admission of a person to a psychiatric establishment on an involuntary basis should not be construed as authorising treatment without his consent. It follows that every competent patient, whether voluntary or involuntary, should be given the opportunity to refuse treatment or any other medical intervention. Any derogation from this fundamental principle should be based upon law and only relate to clearly and strictly defined exceptional circumstances. Of course, consent to treatment can only be qualified as free and informed if it is based on full, accurate and comprehensible information about the patient's condition and the treatment proposed. Consequently, all patients should be provided systematically with relevant information about their condition and the treatment which it is proposed to prescribe for them. Relevant information (results, etc.) should also be provided following treatment.

**The CPT recommends that procedures be established to entrench the principle of consent to treatment for all patients, including those placed on an involuntary basis.**

101. The CPT takes note, once again, that no introductory brochure was issued to patients and their families on admission, setting out the establishment's routine and patients' rights. **The CPT recommends that such a brochure be provided to patients and their families. Any patient unable to understand this brochure should receive appropriate assistance.**

### 3. Zenica Prison Psychiatric Forensic Annexe

102. In essence, there have been no major improvements in the living conditions for patients held in the Forensic Psychiatric Annexe since the CPT's visit in 2003. The only notable change has been the reduction in the number of patients from 69 to 32, which means that the two large dormitories are less crowded. Nevertheless, the CPT must reiterate that large-capacity dormitories are not conducive to meeting the needs of patients. Provision of the accommodation structures based on small groups is a crucial facet in preserving/restoring a patient's dignity, and is also a key policy for the psychological and social rehabilitation of patients. More generally, the material conditions have continued to deteriorate, and the living areas were dirty (including bedding), very dilapidated and wholly unacceptable for a health-care institution.

As regards treatment, the emphasis was still upon pharmacotherapy. The overall approach was one of containment, with little individual autonomy and no individual treatment plans supported by a multidisciplinary team. In fact, there were no opportunities for psychological and occupational therapy, as there were no qualified staff to lead such activities. Patients spent their days doing nothing and did not even have access to a television.

The lack of qualified staff at Zenica also remains a matter of serious concern for the CPT. The recommendations made by the Committee in its report on the 2003 visit to reinforce the staffing levels have not been implemented. As long as the Annexe continues to accommodate patients, it is the duty of the authorities to ensure that they are provided with appropriate care; the current arrangement whereby two psychiatrists visit the Annexe three times a week for several hours is not sufficient. Efforts should be made to ensure that there is input from multidisciplinary clinical staff (for example, a social worker, an occupational therapist, a psychologist). Moreover, the nursing team should be reinforced with properly trained staff in order that prison officers no longer have to be present within the Annexe.

**The CPT calls upon the relevant authorities to take immediate steps to improve the conditions, treatment and staffing levels in the Annexe, in the light of the above remarks.**

103. The delegation noted that the measure of isolation was rarely applied, and that it had to be authorised by a doctor and was duly recorded. Further, the net bed, which had been present in the isolation room at the time of the 2003 visit, had been removed. However, the isolation room was in a shabby condition, cold and unsafe (with a number of sharp edges apparent), making it inappropriate for the placement of disturbed psychiatric patients. Moreover, patients placed in isolation should be subject to direct and continuous staff supervision, which was not the case at the time of the visit. **The CPT recommends that the conditions in the isolation room be improved, in the light of the above remarks.**

104. In the response of 31 May 2007 by the authorities of Bosnia and Herzegovina, the Director of Zenica Prison confirmed the above findings of the CPT's delegation concerning the Forensic Psychiatric Annexe and reiterated the unacceptable situation of accommodating such patients within the prison. The CPT considers that improvements to the conditions and treatment of patients in the Annexe would represent a necessary interim solution pending the urgent establishment of a State-level forensic psychiatric institution (see Section 4 below).

#### 4. A State-level forensic psychiatric institution

105. Even before the CPT's 2003 periodic visit, the authorities of the Federation of Bosnia and Herzegovina acknowledged that holding a large group of psychiatric patients in Zenica Prison Forensic Psychiatric Annexe was totally inappropriate. Such an assessment was borne out by the CPT's findings as well as those of the Federation Ministry of Health and the Federation Ombudsperson. Moreover, in the friendly settlement of a case before the European Court of Human Rights, the authorities of Bosnia and Herzegovina undertook to move all patients held in Zenica Prison Psychiatric Annexe to an adequate facility by 31 December 2005<sup>18</sup>. However, as no alternative solution was found, the Annexe continued to function.

As regards the Forensic Psychiatric Unit at Sokolac Hospital, the CPT has been critical of the conditions and treatment afforded patients in this unit in its reports on both the 2003 and 2004 visits. The findings of the 2007 visit indicate that the conditions are no better today and that the current facility is not at all appropriate for holding this category of patient. It is evident that Sokolac Psychiatric Hospital is not in a position to take on the additional burden of caring for forensic psychiatric patients from the Federation, an option which had been mooted in the past to the CPT.

106. In the course of the 2007 visit, the CPT's delegation noted that there was now agreement across all levels of government in Bosnia and Herzegovina that the existing forensic psychiatric facilities, at Sokolac Psychiatric Hospital and Zenica Prison, needed to be replaced with a single, State-level, facility for the whole country. This represents a positive step. Indeed, it is clear that Bosnia and Herzegovina does not currently possess either the financial resources or the expertise to operate two distinct secure forensic psychiatric units, capable of providing appropriate care and treatment for the category of patients likely to be accommodated in such units.

However, despite this agreement there appeared to be limited tangible progress and the CPT's delegation was concerned by the lack of a *multi-professional strategic planning process*. Such a process should involve all relevant stakeholders in order to ensure that the proposed new facility provides appropriate and safe conditions, is adequately staffed and properly resourced. Taking into account these requirements and the legal complexities, there needs to be a clear and realistic timetable for the implementation of this project. Within this context, a planning team should also be tasked with addressing, in the meantime, the shortcomings related to the care of forensic psychiatric patients currently held in Sokolac Psychiatric Hospital and Zenica Prison Psychiatric Forensic Annexe, in order to ensure that at least minimum standards of care are met (see Sections 2 and 3 above).

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<sup>18</sup> See also the Decision of the Constitutional Court of Bosnia and Herzegovina, of 21 December 2006, concerning the 'lawfulness' of the deprivation of liberty of patients at Zenica Prison Forensic Psychiatric Annexe (CCBIH decision AP 2271 05 Marinic and others).

107. The CPT's delegation requested information on the concrete steps being taken to pursue the plans for a State-level forensic psychiatric institution. By letter of 31 May 2007, the authorities of Bosnia and Herzegovina restated the current state of affairs, as well as providing inconsistent information regarding the "founder" of the new proposed institution. The CPT has serious concerns that the current approach does not, at all, adequately address the fundamental issues raised by its delegation at the end of the visit, notably the development of a multi-professional planning process. There continues to be no apparent consideration of the appropriate care of patients required, the necessary allocation of resources (both capital and running costs), the future management structure, the timescale involved, the management of the existing forensic psychiatric units, etc. The current one-person planning process for such a complex and challenging project is not serious.

**The CPT recommends that the current plans for a State-level forensic psychiatric institution be revised, in the light of the above remarks.**

## **D. Social care homes**

### **1. Preliminary remarks**

108. The CPT's delegation visited for the first time the Fojnica "Drin" Home for Mentally Disabled Persons in the Federation of Bosnia and Herzegovina and the Višegrad Institution for the Protection of Female Children and Youth in the Republika Srpska.

The "**Drin**" Home is located in a semi-rural valley surrounded by hills, just outside the town of Fojnica. Originally, it was part of the "Bakovic" Home, which is also located in Fojnica, and only accommodated children with mental disabilities, but during the war the two homes became separate institutions. "Drin" now accommodates a very heterogeneous mix of residents of both sexes (children, adults, old persons, the mentally and physically handicapped and psychiatrically ill). At the time of the visit, there were 480 residents, of whom some 300 were accommodated in the main five-storey building and the remainder, all of whom were residents with psychiatric illnesses, in a former military barracks several hundred metres away.

The **Višegrad Institution**, located on a hill overlooking the town and surrounded by a fence with a locked gate, was established in 1960; however, in 1992, at the beginning of the war, the residents were transferred to Modrica and it was only re-opened in 2004. The Institution comprises five accommodation units, two of which are derelict, as well as buildings housing the administration, kitchens, health-care and occupational therapy services. There was also a large unused three-storey building, which contained an indoor swimming pool. At the time of the visit, there were 131 female residents in the Institution, with varying degrees of mental disability and an age range of nine to seventy years.

Both homes could be considered as long-term care institutions as it was not expected by staff that residents would be reintegrated into the community, although at "Drin" this did happen on occasion.

109. The Višegrad Institution operated under the Law on the Protection of Persons with Mental Disorders of the Republika Srpska, and the Ministry of Health of that Entity had direct responsibility for the supervision over, and support provided to, the Institution.

On the other hand, the CPT was very concerned to learn that the "Drin" Home and other social care homes in the Federation of Bosnia and Herzegovina were operating within a legal void, as there was no law governing their status or functioning. The fact that the "Drin" Home has been able to provide such good care for the residents in its charge is a tribute to the staff, but it in no way excuses the authorities from fulfilling their regulatory duties. The "Drin" Home and other social care homes should operate within a legal framework and they should form part of a wider strategy for providing care to persons in need both within institutions, such as "Drin", as well as progressively within the community too. **The CPT recommends that the relevant authorities develop such a strategy in consultation with, among others, representatives from the social care homes.**



110. By letter of 31 May 2007, the authorities informed the CPT that a draft law was being prepared by the Federation Ministry of Labour and Social Welfare and that the Parliament of Bosnia and Herzegovina would be proposed as the “founder” of the social care homes within the Federation. **The CPT would like to receive clarification as to the practical ramifications of such a development.**

Moreover, as regards the general information on enhancing care in the community in both Entities, **the CPT wishes to be informed about the concrete steps envisaged for the realisation of such a strategy.**

Further, the CPT considers that there should be a national plan for mental health which addresses the challenges faced by psychiatric institutions and social care homes (including funding issues) and seeks to develop a process for de-institutionalisation (e.g. community mental health centres and community group homes). In this context, it is essential that all the issues addressed by the CPT in this report as regards social care homes are brought together in a comprehensive legislative framework. **The CPT would appreciate the comments of the relevant authorities of Bosnia and Herzegovina on these matters.**

## **2. Ill-treatment**

111. At the outset, the CPT wishes to stress that it heard no allegations of ill-treatment of residents by staff in either of the two homes. On the contrary, the delegation observed generally positive and caring relations between residents and staff, and staff appeared to be doing their best to care for high numbers of challenging residents.

112. The CPT’s delegation did, however, observe and hear about incidents of inter-resident violence at the Višegrad Institution, whereby residents were at risk of being pushed, slapped and verbally abused by other residents. Such incidents can largely be attributed to a combination of insufficient staff numbers, an inadequate regime and a reliance on improvised interventions by certain residents to restore some order to a chaotic environment. **The CPT recommends that the Republika Srpska authorities take the necessary steps to reduce inter-resident violence in Višegrad Institution, in the light of the above remarks and those contained in subsequent sections of this report.**

### 3. Residents' living conditions

113. As regards, living conditions in the main building at “**Drin**”<sup>19</sup>, the ward areas were clean, there was sufficient natural light and adequate artificial lighting and appropriate ventilation. The bathrooms were sufficient in number and the hygiene was good. Further, the dormitories and living rooms in all the wards had murals and pictures on the walls. However, there was a major deficiency, namely overcrowding in sleeping areas (dormitories of 30 m<sup>2</sup> with 11 single and two bunk-beds or with nine bunk-beds, and a number of residents had to sleep on sofa beds in several wards) which also meant there was no space for personal lockers. The overcrowding was accentuated in winter months as the residents were generally not offered the possibility of going outside.

114. The secondary site of “**Drin**”, known as **Urlenike**, consisted of three single-story parallel pavilions, which had been renovated in 2004 with money raised by the Home itself. Pavilion I provided accommodation, in double rooms, for some 15 more stable residents, while Pavilions II and III accommodated 68 female and 95 male residents, respectively. The dormitories and living areas in these two Pavilions were light and airy as well as clean. However, as in the main building there was pronounced overcrowding, with beds in many of the dormitories touching one another and, in Pavilion II, 10 male residents had to sleep on sofas in the living room. The day rooms were also crowded.

As to the kitchens, they were clean and hygienic and there was a monthly menu, which was varied and included sufficient servings of meat and fruit.

115. The delegation was informed about plans at “**Drin**” to build new accommodation blocks on recently purchased land, as a means to alleviate the overcrowding. **The CPT recommends that the relevant authorities give a high priority to the implementation of these plans. Further, efforts should be made, in the meantime, to provide all residents with their own bed in separate sleeping accommodation.**

116. At **Višegrad Institution**, the living conditions in the three recently renovated accommodation units were generally good; the dormitories were clean, bright and airy and were adequately heated, and the bedding was clean. The dormitories were generally not too overcrowded and every resident had their own lockable space; however, the day-rooms were crowded, as the residents were kept together to facilitate supervision by the limited numbers of staff (see also paragraph 123).

The delegation also noted that efforts could be made to provide a more stimulating environment through, for example, the use of pictures, paintings and murals. **The CPT recommends that steps be taken to provide a more positive therapeutic environment.**

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<sup>19</sup> The main building has five accommodation wards : the 1<sup>st</sup> geriatric ward on the ground floor held 55 female and 5 male residents ; the 2<sup>nd</sup> geriatric ward on the first floor held 33 female, 33 male residents and 14 children; a 2<sup>nd</sup> floor ward held 20 male and 19 female residents, most of whom were severely handicapped and dysmorphic and largely confined to their beds, and 22 mobile residents; the 3<sup>rd</sup> floor adult male ward held 79 residents, all with learning disabilities and in some cases combining a psychiatric disorder; and there was a recently renovated open ward with small dormitories of two to four beds accommodating 40 residents, all of whom spent their days on other wards or in occupational therapy or other meaningful activities.

The kitchen area was clean but the menus limited; **efforts should be made to increase the variety of food and more fresh fruit should be offered to residents.**

117. The delegation was also informed that both institutions, due to financial constraints, lacked bed linen, pyjamas, clothes, shoes and expendables such as diapers, and this state of affairs was confirmed by the delegation's own observations. **The CPT recommends that the relevant authorities take the necessary steps to ensure that the "Drin" Home and the Višegrad Institution have a sufficient supply of such items.**

#### **4. Treatment**

118. At "**Drin**", most of the residents were confined to their wards and spent the day in the communal rooms where they played various card and board games, read or watched television. However, commendable efforts were being made to develop the occupational therapy department, on the fifth floor of the main building. It consisted of a number of rooms in which groups of residents, particularly children and young adults, were engaged in education and various activities (painting, modelling, singing, etc.). There was also a "snoezelen" (controlled multisensory stimulation) room and a small gym area for physiotherapy. A number of residents were also engaged in an occupational textile and woodwork shop, while others helped out with cleaning and support duties.

The delegation was told that during winter, residents were not offered the possibility of outdoor exercise as there was a fear of them becoming ill, whereas in summer they were encouraged to spend time in the meadows and garden surrounding the home; and even the bed-ridden residents were taken onto the terraces. In addition, during the summer months, various excursions were organised to Sarajevo and to the seaside, as well as picnics outside.

It was noted that, at "Drin", even the residents on the learning disability wards were on large doses of psychotropic medicines. Moreover, due to cost, only old-generation neuroleptic medication was administered. With greater ward-based staff (combined with improved living conditions), it may in some cases be possible to reduce the apparent reliance on medication.

119. At **Višegrad**, besides television, there was a lack of purposeful therapeutic, occupational or diversionary activities for residents, as well as an absence of education for children, and the regime was based mainly upon containment, with little individual autonomy; residents were essentially confined to their pavilions and were not even offered the opportunity of outdoor exercise every day. Moreover, residents were not permitted to visit the community beyond the institution's fence, and no excursions were organised, which seriously limited the residents' life experiences and served to enhance their institutionalisation.

120. In both institutions, but especially in Višegrad<sup>20</sup>, the children would benefit in particular from a greater individual approach in specially designed living facilities. In the plans to expand the accommodation units and facilities in both institutions, consideration should be given as a priority to the special needs of children. **The CPT recommends that, in the context of the development of new accommodation units at both institutions, due account be taken of the above remarks.**

121. The delegation also noted that there were no individual treatment plans or reviews at either institution and there was a lack of psycho-social programmes. The medical files at “Drin” contained the case history of the residents, including the original psychiatric reports, with opinions and diagnoses, as well as running records, while at Višegrad the medical records were particularly sparse.

**The CPT recommends that individual treatment plans be established for each resident in both institutions and that increased efforts be made to develop psycho-social rehabilitation programmes.**

## 5. Staffing

122. At “Drin”, staffing levels were insufficient for the number of residents. In the main building, there were two social workers, one defectologist, one speech therapist and 15 occupational therapists, and in Urlenike only one social worker. There was a general practitioner and a dentist, each employed on a full-time basis, and other specialist doctors visited as required. However, there was no psychologist, and the delegation was also struck by the limited psychiatric input, once a week, given that there were some 200 residents with psychiatric disorders.

As to nursing and caring staff, the delegation noted that there was a need for more ward-based staff; for example, the adult male ward had only two nurses and one male orderly for 75 residents (some of whom required close supervision) during the two daytime shifts; and the male psychiatric ward had two nurses and two carers during the morning shift and two nurses and one orderly during the afternoon shift for some 87 residents. More ward-based staff would allow for greater opportunities for supervision and staff-patient interaction on an individual basis.

**The CPT recommends that the authorities of the Federation of Bosnia and Herzegovina take the necessary steps to increase the staffing levels at “Drin”, in the light of the above remarks, and in particular:**

- **to recruit a full-time psychologist;**
- **to reinforce the social worker and defectologist input;**
- **to increase the psychiatric presence to the equivalent of at least one full-time psychiatrist;**
- **to recruit additional ward-based staff, including mental health nurses and social therapists.**

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<sup>20</sup> In the course of the visit, the Director of the Institution explained that he intended to renovate two unused pavilions as a means of increasing capacity and improving living conditions for the current residents and, by letter of 31 May 2007, the CPT was informed that the Government of the Republika Srpska had approved the necessary funds to renovate the two pavilions concerned.

123. At the **Višegrad Institution**, the core staff consisted of one defectologist, one social worker, one occupational therapist, nine carers, ten nurses and a head nurse. This is clearly insufficient. The delegation noted that the lack of qualified staffing was the main reason behind the dearth of activities and the lack of control within the accommodation units, as staff had to rely on the more able residents to assist them in keeping order. For example, Pavilion IV accommodated the 57 most challenging female residents, yet there was only one nurse and one carer on duty from 7 a.m. to 7 p.m. every day. There was also a need for additional input by specialist staff such as an occupational therapist, a psychologist and a physiotherapist. The delegation noted that the organisational chart for the institution provided for the recruitment of additional staff; for example, it decreed that there should be 13 nurses and 13 carers for every 100 residents, which would imply an increase of at least eight nurses and seven carers. This would represent an appropriate reinforcement in staffing levels and enable staff-patient interaction to develop on a more individualised basis.

By letter of 31 May 2007, the CPT was informed about the recent recruitment of one nurse and a kitchen assistant. This is a start but remains insufficient.

**The CPT recommends that the Republika Srpska authorities take the necessary steps to reinforce staff resources at the Višegrad Institution, in the light of the above remarks.**

124. As stated above, the CPT's delegation was impressed by the caring approach of staff in both institutions. However, there is a need for staff to be provided with ongoing training and support in carrying out their challenging duties. Some initial courses had been organised for staff at "Drin" and there were plans to develop further such initiatives; however, at Višegrad, no specific training had been provided to staff. **The CPT recommends that staff in both institutions be provided with further training and support to fulfil their duties professionally.**

## **6. Restraint**

125. In both institutions, staff had resort to soft restraints (bandages) for challenging residents, but the delegation gained the impression that, in general, there was not an excessive use of such restraints. Nevertheless, the use of bandages to secure frail and confused residents, particularly at Višegrad, could be reduced if there were adequate numbers of staff on the wards. The delegation also noted that residents were usually restrained in their beds in full view of other residents, with little staff supervision. Further, there was no separate register to record all instances of restraint and isolation, which would allow for monitoring, and there appeared to be no written operational policy on resort to restraint.

The CPT understands that, on occasion, there may be a need to restrain residents to protect themselves or others and, *exceptionally*, to resort to instruments of physical restraint. However, **the CPT recommends that any measures of mechanical restraint entail the use of appropriately designed restraint equipment, be applied by properly trained staff, monitored and recorded, including centrally, and be implemented in such a way as to maintain the dignity and safety of the resident. Resort to mechanical restraint should not usually take place in the presence of other patients and there should always be continuous direct personal supervision. Further, a written operational policy regulating the use of restraints should be drawn up at “Drin”, Višegrad and other social care homes in Bosnia and Herzegovina<sup>21</sup>.**

126. At “Drin”, the delegation met two adult brothers, occupying a bunk-bed, who were restrained with chains and padlocks for most of the day. The brothers, diagnosed as oligophrenic and possibly epileptic, had been transferred to Drin two years previously as the other social care homes had been unable to care for them. Staff explained that the brothers would be released in the morning to take a shower and, on most afternoons, they would be taken to the sitting room for a couple of hours. However, due to their violent nature, and the fact that the doctors had said they could not be calmed with medication, the brothers were kept chained to their beds day and night. They even ate their food chained to their beds.

The CPT considers that the chaining of a resident in a therapeutic environment is unacceptable, no matter how challenging that resident might be. If recourse to mechanical restraint is unavoidable, other more suitable means of mechanical restraint should be applied. Moreover renewed efforts should be taken, via a multidisciplinary commission, to develop a regime for their safe management, having recourse to a combination of medication, supervision, specially designed restraint equipment, environmental enhancements and other approaches.

The Federation Ministry of Labour and Social Welfare should take the lead in finding a solution to this challenging matter and not leave it to the “Drin” Home alone.

**The CPT recommends that the relevant authorities take immediate steps to develop the use of alternative strategies to chaining for these residents, and that they allocate the necessary resources accordingly.**

## 7. Deaths in social care homes

127. The CPT’s delegation noted that there had been a certain number of unexpected deaths at Višegrad Institution since its re-opening in 2004. The CPT considers that when an individual residing in a social care institution dies unexpectedly, there should be an internal inquiry and an independent external investigation. As far as the CPT’s delegation could ascertain, these requirements were not being met at Višegrad. Moreover, its delegation had concerns that forensic autopsies were not being carried out on residents who died unexpectedly, contrary to the recommendations of the Council of Europe<sup>22</sup>.

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<sup>21</sup> See “Means of restraint in psychiatric establishments for adults” in the 16<sup>th</sup> General Report on the CPT’s activities (CPT/Inf (2006) 35, paragraphs 36 to 54).

<sup>22</sup> See 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.

For example, at Višegrad Institution, the delegation came across the case of ĐB, who died on 10 June 2006 after apparently falling out of her bed. This particular resident had been placed in a dormitory with stronger women as she was known for attempting to fondle other residents, especially children. However, it seems that within a short period she became bedridden and disoriented and kept falling out of bed. When a doctor came to treat her on 7 June 2006, it was noted that she had massive bruising on the right side of her chest as well as traumatic haemothorax, and she was sent to hospital. Two days later, she died of cardio-respiratory insufficiency, according to the hospital epicrisis, and was buried the following day. Questions as to whether the trauma that could have caused her death was inflicted by another resident or staff member, or might be attributed to negligence due to a lack of supervision, were not addressed. Consequently, the CPT's delegation requested that an inquiry into this death, as well as into other recent unexpected deaths, be carried out, and that the results of these inquiries be submitted to the Committee.

By letter of 31 May 2007, the Republika Srpska authorities informed the CPT that a Commission had been established to look into the deaths of two residents.

**The CPT recommends that the relevant authorities draw up a clear protocol for dealing with unexpected deaths in social care homes. Further, the CPT wishes to be informed about the results of the inquiries it requested be carried out at the Višegrad Institution.**

## **8. Safeguards**

### **a. initial placement and discharge procedures**

128. The placement of a resident in a social care home is proposed by the guardian of the person concerned (either the social work centre in which the resident is registered or a family member). A social work centre may request to place a resident in any of the social care homes in the country, whether they be in the Federation or the Republika Srpska. The determining factors are the availability of places and cost, as each social work centre must pay a monthly fee per resident.

The prerequisites for placing a resident in a social care home is that the person be deprived of their legal capacity (that is, declared mentally incompetent), as well as having a psychiatric disorder and/or mental disability and having completed any hospital treatment.

If these requirements (and certain others) are met, an internal commission of the social care home examines the application and decides whether or not to accept the person. This process does not involve any on-site investigation or interviews by the social care home. Upon admission, the social work centre or the family (whichever is the guardian), signs a contract with the social care home whereby, in return for a monthly fee, the home will care for and treat the resident. The social care home also undertakes to submit a yearly report to the guardian.

129. In the context of Bosnia and Herzegovina, the CPT considers that all decisions to place a person in a social care home involuntarily or at the instigation of a guardian should be notified to a court, with a view to seeking the court's approval for the placement. Such a safeguard will represent a necessary element in the elaboration of a comprehensive legislative framework (see paragraph 110 above). **The CPT recommends that the relevant authorities take the necessary steps to ensure that such a safeguard is introduced in respect of all new placements in social care homes in Bosnia and Herzegovina.**

b. safeguards during placement

130. The CPT is also concerned by the apparent lack of appropriate safeguards in place for persons who have been deprived of their legal capacity and subsequently placed in a social care home. The delegation met a number of residents in both homes, but particularly at "Drin", who gave the impression of being competent. Yet there seemed to be no concerted efforts by the guardian or the relevant social work centre to find an alternative solution for these residents in the community. An independent review of each resident's placement should be carried out at regular intervals, at which the resident should be offered the opportunity of expressing his/her views. **The CPT recommends that the relevant authorities institute regular automatic reviews for residents placed in social care homes.**

131. The yearly two-page reports drawn up for each resident at "Drin" provided minimal information, although staff stated that they were always willing to draw up ad hoc reports on demand and to meet with the guardians, if requested. At Višegrad, even such reports were not produced. It was evident from interviews with staff, social workers and the director of a social work centre that, once a person was placed in a social care home, there was generally no further interest in their care and treatment. Consequently, it appeared that few family members or guardians from social work centres ever wrote, visited or manifested an interest in their wards. **The CPT recommends that the relevant authorities encourage the social work centres to fulfil their supervisory duties properly.**

132. Civil society can play a very important role in the lives of residents in social care homes, not least through their regular visits, which increase residents' contact with the outside world. The CPT noted that at "Drin", contacts with the outside world were being developed, whereas at Višegrad there appeared to be no contacts with non-governmental organisations. **The CPT encourages both institutions to develop their links with outside organisations.**

In this context, the CPT would also emphasise the importance it attaches to social care homes being visited on a frequent basis by an independent outside body empowered to formulate recommendations to the authorities on ways to improve the care and conditions afforded to residents. Visits by such a body - which could also be competent to receive complaints from residents, their families or their guardians - would, in the Committee's view, constitute an important safeguard for residents at both social care homes. **The CPT recommends that the relevant authorities explore the possibility of instituting such a system of visits by an independent body.**



133. The CPT was informed that at the Višegrad Institution, a governing board and a supervisory board composed of five and three members, respectively, would be appointed in the near future. Such oversight bodies can potentially perform an important role in the management and development of a social care home. However, the CPT was concerned that there was pressure upon the institution to pay the members appointed to these bodies a sizeable monthly salary instead of a per diem, based upon their attendance at meetings. The clinical care of the residents must be the priority and scarce resources should be allocated accordingly. **The CPT would like to receive the comments of the relevant authorities in respect of this matter.**

134. It would appear that no written information on residents' rights was provided to residents or their guardians at either home, although preparations were underway at "Drin" to produce an introductory brochure and a website.

**The CPT recommends that an introductory brochure for residents and guardians be provided at all social care homes in Bosnia and Herzegovina, setting out each establishment's routine and residents' rights, including information about their right to lodge formal complaints and the modalities for doing so.**

## **9. Guardianship**

135. The delegation noted that all persons admitted to social care homes had their legal capacity removed by a court decision, and had a legal guardian appointed by the social work centre where they were registered. Most of the residents in the two social care homes visited were accommodated in locked wards or could apparently be restrained by the staff of the institution whenever it was considered necessary.

136. The procedures for the removal of legal capacity are the same in both Entities<sup>23</sup>. The family of the person concerned or the relevant social work centre applies to the court for a decision on removal. A medical opinion on the person concerned is drawn up by a psychiatrist and 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 he or she is considered capable of understanding the proceedings. Further to a decision by the court, one of the parties may appeal the ruling within three days.

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<sup>23</sup> See the 1989 former Yugoslavia Law on non-contentious proceedings (Articles 29 to 44), which is still applicable in the Republika Srpska and the Federation of Bosnia and Herzegovina Law on non-contentious proceedings of 1998 (Articles 29 to 44).

**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 for appealing against a decision to deprive them of their legal capacity.**

137. Within 30 days of the court's decision, the social work centre should designate a permanent guardian, whose role should be to assist the person in regaining his/her mental capacity<sup>24</sup>. It should be noted that once a person has had their legal capacity removed indefinitely by a court, there are no automatic reviews. The court may, upon its own motion or upon that of the person who initiated proceedings to have the legal capacity removed originally, examine whether to revoke its decision. However, cases involving indefinite removal of legal capacity were apparently never reconsidered in practice, and the delegation heard that discharge from a social care home occurred rarely and usually in the face of opposition from the social work centre concerned.

Moreover, it appeared that guardians frequently neglected their responsibilities towards their wards once they had signed a contract with a social care home, effectively granting blanket consent for all treatment and measures applied by the home. Further, the guardians, in general, made little effort to visit their wards or to scrutinise the care being offered.

**The CPT recommends that the relevant authorities take the necessary steps to ensure that legal guardians fulfil their duties responsibly and in the interests of their wards.**

138. In this context, the CPT would like to remind the relevant authorities 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. This Recommendation contains 28 governing principles concerning guardianship. The CPT considers that an institute of guardianship based upon these principles would be balanced, fair and, above all, proportionate. **The CPT recommends that the authorities incorporate the Council of Europe's Principles concerning the Legal Protection of Incapable Adults into the national legal norms governing guardianship.**

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See the Republika Srpska Family Law of 2002 (Articles 209 to 215) and the Federation of Bosnia and Herzegovina Family Law 2005 (Articles 192 to 196 and 202 to 212).

## **APPENDIX I**

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

#### **Law enforcement agencies**

##### **Ill-treatment**

##### **recommendations**

- the Ministers of Interior and Police Commissioners to deliver a strong message that the ill-treatment of detained persons is illegal, unprofessional, and will be the subject of severe sanctions (paragraph 13);
- the authorities to pursue a multifaceted approach, comprising: a competitive recruitment process for police officers based upon strict selection criteria; an educational training course for all new recruits; and the provision of specific competency courses, on a regular basis, for serving police officers, both to update their skills and knowledge and to provide them with new competencies (paragraph 15);
- the Chief Prosecutor in both Entities to recall firmly that prosecutors are under a legal obligation to investigate all cases of ill-treatment (paragraph 16);
- whenever criminal suspects brought before a prosecutor or judge 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. Even in the absence of an express allegation of ill-treatment, the prosecutor/judge should request a forensic medical examination whenever there are other grounds to believe that a person brought before him could have been the victim of ill-treatment. If necessary, the relevant legal provisions should be amended (paragraph 16).

##### **requests for information**

- the legal regulations and safeguards in place regarding the apprehension by the police of persons who appear mentally agitated (paragraph 12);
- the action taken regarding the case referred to in paragraph 11, second sub-paragraph (paragraph 12);
- confirmation that all unauthorised items have now been removed from police interview rooms (paragraph 14).

## **Safeguards against ill-treatment**

### recommendations

- the authorities of Bosnia and Herzegovina to ensure that all detained persons are granted the right to notify a close relative or third party of their choice of their situation as from the very outset of their deprivation of liberty by the police (paragraph 18);
- the authorities of Bosnia and Herzegovina to ensure that a right of access to a lawyer, as defined in paragraph 20, is both explicitly granted in law and rendered effective in practice for everyone deprived of their liberty by the law enforcement authorities, from the very outset of their deprivation of liberty (paragraph 20);
- specific legal provisions to be adopted on the right of access to a doctor, in line with the criteria stipulated in the Committee's report on the 2003 visit to Bosnia and Herzegovina (paragraph 21):
- the authorities to take the necessary steps to ensure that custody registers are scrupulously filled out (paragraph 22).

## **Material conditions**

### recommendations

- the authorities of Bosnia and Herzegovina to pursue their programme of upgrading police holding facilities; in particular, steps should be taken to improve conditions in the cells at Konjic and Mostar Centar police stations, in the light of the remarks in paragraph 23 (paragraph 23).

## **Prison establishments**

## **Preliminary remarks**

### recommendations

- the relevant authorities to take all necessary steps as a matter of priority to put an end to the practice of accommodating juveniles together with adults (paragraph 28).

### requests for information

- the development of the proposed juvenile unit in the Republika Srpska (paragraph 28);
- clarification as to the role of courts and judges in the operational decisions concerning remand prisoners (paragraph 30).

### **Ill-treatment**

#### recommendations

- the relevant authorities to deliver the clear message to staff at Zenica Prison that physical ill-treatment of prisoners is not acceptable and will be dealt with severely (paragraph 35);
- the relevant authorities to continue to give a high priority to the development of prison staff training, both initial and ongoing. In the course of such training, considerable emphasis should be placed on the acquisition of interpersonal communication skills. Building positive relations with prisoners should be recognised as a key feature of a prison officer's vocation (paragraph 36);
- the results of every medical examination to be included in the medical file of the person concerned (paragraph 37);
- whenever injuries are recorded by a doctor which are consistent with allegations of ill-treatment, the matter to be immediately brought to the attention of the relevant prosecutor and a preliminary investigation initiated (paragraph 37);
- a criminal investigation concerning the matter referred to in paragraph 38 to be carried out by the public prosecutor (paragraph 38);
- when allegations of ill-treatment are brought to the attention of prison management, those staff members concerned to be transferred to duties not requiring day to day contact with prisoners, pending the results of the investigation (paragraph 38);
- the authorities to take the necessary steps to make Dobož Prison safe for both staff and prisoners through, inter alia, reinforcing the physical and dynamic security of the prison (including by increasing staff numbers) (paragraph 43);
- a more rigorous placement policy to be applied to ensure that prisoners with lengthy prison sentences are not sent to Dobož Prison (paragraph 43);
- the relevant authorities to draw up a comprehensive plan to tackle inter-prisoner violence in the prison establishments of Bosnia and Herzegovina. Such a plan should address the specific challenges within each establishment, and should make reference to:
  - appropriate staffing levels on all units throughout the day;
  - training for staff on prevention and management of incidents of inter-prisoner violence;
  - assessment, classification and cell allocation of prisoners;
  - detection and follow-up of cases of inter-prisoner violence;
  - the development of a meaningful regime (paragraph 51);
- the relevant authorities to establish, as soon as possible, high-security units in Zenica and Foča prisons, making use of existing international good practice with respect to the design and management of such facilities (paragraph 55);

- the relevant authorities to take into account the remarks made in paragraph 54 in the process of elaborating the regime and of developing the legal provisions and regulations under which the high-security facilities will operate (paragraph 55).

#### comments

- the proposed small walking areas for outdoor recreation in the new high-security unit at Foča Prison should be reviewed (paragraph 52).

#### requests for information

- a copy of the State Ombudsperson's report on the allegations of ill-treatment concerning Zenica Prison and information about the action taken by the Chief Prosecutor (paragraph 35);
- the measures taken to guarantee the safety of the two prisoners who were transferred to Banja Luka Prison in the aftermath of the riot at Dobož Prison (paragraph 43);
- why no criminal proceedings were initiated in respect of the incident on 11 March 2007 at Zenica Prison (paragraph 44);
- a copy of the plan to tackle inter-prisoner violence in the prison establishments of Bosnia and Herzegovina (paragraph 51).

### **Staffing**

#### recommendations

- the authorities of Bosnia and Herzegovina to carry out an assessment of the staffing levels required to provide a safe environment for staff and inmates alike in Foča and Zenica prisons (paragraph 56);
- all vacancies in Foča and Zenica Prisons to be filled as a matter of urgency (paragraph 56);
- the relevant authorities to devise a comprehensive staff integrity policy for prison staff (paragraph 58).

### **Material conditions**

#### recommendations

- the authorities of Bosnia and Herzegovina to take immediate steps to ensure that every inmate in Sarajevo Prison is provided with his/her own bed and with clean bedding. More generally, urgent steps should be taken to ensure that this establishment operates within its official capacity (paragraph 60).

## **Regime**

### recommendations

- the relevant authorities to take steps as a matter of urgency to radically improve activities for remand prisoners. The aim should be to ensure that all prisoners are able to spend a reasonable part of the day outside their cells, engaged in purposeful activities of a varied nature (group association activities; work, preferably with vocational value; education; sport) (paragraph 63);
- the relevant authorities to ensure immediately the proper application of the Criminal Procedure Codes of Bosnia and Herzegovina, whereby all persons on remand should be offered two hours of outdoor exercise every day (paragraph 63).

### comments

- the authorities are encouraged to further increase the number of activities offered to inmates in Foča and Zenica Prisons (paragraph 65).

## **Health-care services**

### recommendations

- the relevant authorities to take the necessary steps to improve prison health-care services, based upon the guidelines laid down in the 2004 assessment report by the Council of Europe (paragraph 66);
- the involvement of the Entity Ministries of Health in the development of prison health-care to be enhanced (paragraph 66);
- an additional medical doctor to be recruited for Zenica Prison and provision to be made for the increased presence of a doctor at Foča Prison (paragraph 67);
- steps to be taken to ensure that the practice in Bosnia and Herzegovina as regards the medical examination of newly-admitted prisoners is brought into line with the considerations listed in paragraph 69 (paragraph 69);
- a comprehensive drugs policy to be developed for the prisons in Bosnia and Herzegovina, as part of a national strategy (paragraph 70);
- the findings of the Commission referred to in paragraph 71 to be transmitted to the prosecutor responsible for carrying out the investigation into this case of death in custody in Zenica Prison (paragraph 71).

### requests for information

- the report on the investigation by the public prosecutor as well as a copy of the autopsy and toxicology reports concerning the prisoner who died in Zenica Prison on 13 November 2006 (paragraph 71).

## **Discipline, segregation, and means of restraint**

### recommendations

- the relevant authorities in the Federation to take the necessary steps to ensure that a prisoner is guaranteed the right of appeal to an external body against the imposition of a disciplinary measure (paragraph 73);
- the relevant authorities to ensure that:
  - a prisoner placed in segregation or in respect of whom such placement is extended, is informed in writing of the reasons therefor (it being understood that there might be reasonable justification for withholding from the prisoner specific details related to security);
  - a prisoner in respect of whom a segregation measure is envisaged, is given an opportunity to express his views on the matter;
  - the placement of a prisoner in segregation is fully reviewed at least once every three months;
  - prisoners have the right to appeal to an authority outside the prison establishment concerned against the imposition or extension of a segregation measure (paragraph 75);
- a clear procedure should be established to ensure that prisoners are made aware of the rights and safeguards listed in paragraph 75 (paragraph 75);
- the Republika Srpska authorities to ensure that all prisoners placed on heightened supervision benefit from the safeguards enumerated in paragraph 75 (paragraph 76);
- the relevant 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. These guidelines should cover the elements listed in paragraph 77, including the means of restraint authorised and the proper recording of their use (paragraph 77);
- appropriate steps to be taken to ensure that any placement in a solitary confinement or segregation cell and any use of instruments of physical restraint (whether or not this is in a medical context) is duly recorded, with a reference to the grounds and the length of time involved. Preferably, specific registers should be established for the recording of such information (in addition to a record being placed in the individual file of the person concerned) (paragraph 78);
- the authorities of Bosnia and Herzegovina to draw up a clear directive governing the use of pepper spray, which should include, as a minimum:
  - clear instructions as to when pepper spray may be used, which should state explicitly that pepper spray should not be used in a confined area;
  - the right of prisoners exposed to pepper spray to be granted immediate access to a doctor and to be offered an antidote;
  - the qualifications, training and skills of staff members authorised to use pepper spray;
  - an adequate reporting and inspection mechanism with respect to the use of pepper spray (paragraph 79).



comments

- the CPT has reservations concerning the restriction of outside contacts following a disciplinary offence, even when the offence committed is not related to misuse of such outside contacts (paragraph 72).

requests for information

- a detailed explanation of the disciplinary measures applicable to prisoners on remand (paragraph 72);
- a copy of the guidelines issued concerning persons at risk of self-harm or suicide (paragraph 77).

**Complaints and inspection procedures**

recommendations

- the authorities of Bosnia and Herzegovina to take the necessary steps to ensure the confidentiality of correspondence of prisoners with outside judicial and complaints' bodies (paragraph 81).

comments

- the CPT encourages the establishment of a specialised department for prison monitoring within the merged State Ombudsman's Office, especially in the absence of an independent prisons inspectorate (paragraph 82).

request for information

- the time-schedule of the implementation of the decision to establish a special department dedicated to prison monitoring within the State Ombudsman's Office (paragraph 82).

**Psychiatric establishments**

**Preliminary remarks**

recommendations

- the relevant authorities to take the necessary measures to reduce the risk of inter-patient violence in the Male Acute Ward and the FPU at Sokolac Psychiatric Hospital, taking into consideration the remarks in paragraphs 85 *et seq* (paragraph 85).

## **Sokolac Psychiatric Hospital**

### recommendations

- the authorities of Bosnia and Herzegovina to take the necessary steps to improve the living conditions in the FPU and the Male Acute Ward, notably:
  - to ensure in the dormitories occupancy levels of an acceptable level (at least 4 m<sup>2</sup> living space to be provided for each patient);
  - to offer better conditions as regards equipment and decoration, in the day-rooms and dormitories of the respective locked units;
  - to replace all missing window panes;
  - to provide all patients with personal lockable space in which they can keep their belongings;
  - to review the arrangements for outdoor exercise for patients on the locked ward of the FPU in order that all patients may benefit from such exercise in a reasonably spacious setting, which should also provide shelter from inclement weather (paragraph 89);
- the relevant authorities to take immediate steps to rectify the dangerous situation concerning the hospital refectory (paragraph 90);
- the relevant authorities to carry out a review of the staffing levels within Sokolac Psychiatric Hospital, with a view to reinforcing the presence of qualified staff (paragraph 91);
- the authorities to set up procedures to enable staff to meet regularly and to form a team under the authority of a senior doctor, in parallel with the staff reinforcement (paragraph 92);
- individual treatment plans to be established for each patient in the units visited and increased efforts to be urgently made to develop psycho-social rehabilitation, including programmes on the prevention of re-offending for patients in the Forensic Psychiatric Unit (paragraph 93);
- steps to be taken to ensure that medication prescribed is in fact provided, and that a regular supply of appropriate medicines is guaranteed at all times (paragraph 94);
- a policy on restraint of violent or agitated patients to be drawn up forthwith, taking into consideration the remarks in paragraph 95 (paragraph 95);
- urgent steps to be taken to ensure the Commission for the Protection of Persons with Mental Disorders becomes operational in the immediate future (paragraph 98);
- procedures for admission to the Male Acute Ward to be reviewed and all persons to be admitted to this ward in accordance with the law (paragraph 99);
- procedures to be established to entrench the principle of consent to treatment for all patients, including those placed on an involuntary basis (paragraph 100);

- a brochure setting out the establishment's routine and patients' rights to be provided to patients and their families. Any patients unable to understand this brochure should receive appropriate assistance (paragraph 101).

#### requests for information

- confirmation that all handcuffs have been removed from the premises of Sokolac Psychiatric Hospital (paragraph 96);
- the legislative and institutional measures being taken to resolve the shortcomings identified in paragraph 97 concerning criminal proceedings involving mentally ill persons (paragraph 97).

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

#### recommendations

- the relevant authorities to take immediate steps to improve the conditions, treatment and staffing levels in the Annexe, in the light of the remarks in paragraph 102 (paragraph 102);
- the conditions in the isolation room to be improved, in the light of the remarks made in paragraph 103 (paragraph 103).

### **A State-level forensic psychiatric institution**

#### recommendations

- the current plans for a State-level forensic psychiatric institution to be revised, in the light of the remarks made in paragraphs 105 to 107 (paragraph 107).

### **Social care homes**

#### **Preliminary remarks**

#### recommendations

- the relevant authorities of the Federation of Bosnia and Herzegovina to develop a strategy for providing care to persons in need, in consultation with, among others, representatives from the social care homes (paragraph 109).

#### requests for information

- clarification as to the practical ramifications of the Parliament of Bosnia and Herzegovina becoming the "founder" of the social care homes in the Federation of Bosnia and Herzegovina (paragraph 110);

- the concrete steps envisaged for the realisation of a strategy to enhance care in the community in both Entities (paragraph 110);
- comments of the relevant authorities of Bosnia and Herzegovina on the development of a national plan for mental health and a comprehensive legislative framework concerning social care homes (paragraph 110).

### **III-treatment**

#### recommendations

- the Republika Srpska authorities to take the necessary steps to reduce inter-resident violence in Višegrad Institution, in the light of the remarks made in paragraphs 112 *et seq* (paragraph 112).

### **Residents' living conditions**

#### recommendations

- the relevant authorities give a high priority to the implementation of the plans at “Drin” to build new accommodation blocks on recently purchased land, as a means to alleviate overcrowding. Further, efforts should be made, in the meantime, to provide all residents with their own bed in separate sleeping accommodation (paragraph 115);
- steps to be taken to provide a more positive therapeutic environment at Višegrad Institution (paragraph 116);
- the relevant authorities to take the necessary steps to ensure that the “Drin” Home and the Višegrad Institution have a sufficient supply of the items referred to in paragraph 117 (paragraph 117).

#### comments

- efforts should be made to increase the variety of food at Višegrad Institution and more fresh fruit should be offered to residents (paragraph 116).

### **Treatment**

#### recommendations

- in the context of the development of new accommodation units in both the “Drin” Home and the Višegrad Institution, consideration should be given as a priority to the special needs of children (paragraph 120);

- individual treatment plans to be established for each resident in both institutions and increased efforts to be made to develop psycho-social rehabilitation programmes (paragraph 121).

## **Staffing**

### recommendations

- the authorities of the Federation of Bosnia and Herzegovina to take the necessary steps to increase the staffing levels at “Drin”, in the light of the remarks in paragraph 122, and in particular:
  - to recruit a full-time psychologist;
  - to reinforce the social worker and defectologist input;
  - to increase the psychiatric presence to the equivalent of at least one full-time psychiatrist;
  - to recruit additional ward-based staff, including mental health nurses and social therapists (paragraph 122);
- the Republika Srpska authorities to take the necessary steps to reinforce staff resources at Višegrad Institution, in the light of the remarks in paragraph 123 (paragraph 123);
- staff at both the “Drin” and Višegrad institutions to be provided with further training and support in order to fulfil their duties professionally (paragraph 124).

## **Restraint**

### recommendations

- any measures of mechanical restraint to entail the use of appropriately designed restraint equipment, to be applied by properly trained staff, monitored and recorded, including centrally, and to be implemented in such a way as to maintain the dignity and safety of the resident. Resort to mechanical restraint should not usually take place in the presence of other patients and there should always be continuous direct personal supervision (paragraph 125);
- a written operational policy regulating the use of restraints to be drawn up at “Drin”, Višegrad and other social care homes in Bosnia and Herzegovina<sup>25</sup> (paragraph 125);
- the relevant authorities to take immediate steps to develop the use of alternative strategies to chaining for the residents referred to in paragraph 126, and that they allocate the necessary resources accordingly (paragraph 126).

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<sup>25</sup> See “Means of restraint in psychiatric establishments for adults” in the 16<sup>th</sup> General Report on the CPT’s activities (CPT/Inf (2006) 35, paragraphs 36 to 54).

## **Deaths in social care homes**

### recommendations

- the relevant authorities to draw up a clear protocol for dealing with unexpected deaths in social care homes.

### requests for information

- the results of the inquiries the CPT requested be carried out at the Višegrad Institution (paragraph 127).

## **Safeguards**

### recommendations

- the relevant authorities to take the necessary steps to ensure that a court is notified of all new placements in social care homes in Bosnia and Herzegovina (paragraph 129);
- the relevant authorities to institute regular automatic reviews for residents placed in social care homes (paragraph 130);
- the relevant authorities to encourage social work centres to fulfil their supervisory duties properly (paragraph 131);
- the relevant authorities to explore the possibility of instituting a system of visits to social care homes by an independent body as set out in paragraph 132 (paragraph 132);
- an introductory brochure for residents and guardians to be provided at all social care homes in Bosnia and Herzegovina, setting out each establishment's routine and residents' rights, including information about their right to lodge formal complaints and the modalities for doing so (paragraph 134).

### comments

- the social care homes of 'Drin' and Višegrad are encouraged to develop their links with outside organisations (paragraph 132).

### requests for information

- the comments of the relevant authorities in respect of the matter raised in paragraph 133 concerning the remuneration of oversight duties at the Višegrad Institution (paragraph 133).

## **Guardianship**

### recommendations

- the relevant authorities to take the necessary steps to ensure that all persons who are the subject of proceedings with a view to being deprived of their legal capacity are systematically:
  - heard in person by the court;
  - given a copy of the court decision;
  - informed, verbally and in writing, of the possibility and modalities for appealing against a decision to deprive the of their legal capacity (paragraph 136);
- the relevant authorities to take the necessary steps to ensure that legal guardians fulfil their duties responsibly and in the interests of their wards (paragraph 137);
- the authorities to incorporate the Council of Europe's Principles concerning the Legal Protection of Incapable Adults into the national legal norms governing guardianship (paragraph 138).





**APPENDIX II**

**LIST OF THE NATIONAL AUTHORITIES AND ORGANISATIONS  
WITH WHICH THE CPT'S DELEGATION HELD CONSULTATIONS**

**A. State Ministerial authorities**

**Ministry of Justice**

Barisa ČOLAK	Minister
Srdjan ARNAUT	Deputy Minister
Mustafa BISIĆ	Assistant Minister responsible for the execution of criminal sanctions

**Ministry of Human Rights and Refugees**

Slavko MARIN	Deputy Minister
Slobodan NAGRADIĆ	Assistant Minister
Minka SMAJEVIĆ	CPT Liaison Officer

**Ministry of Security**

Samir RIZVO	Assistant Minister
Sreto PEKIĆ	Chief Inspector
Vahid ALAGIĆ	Deputy Director of the State Border Service
Nijaz SPAHIĆ	Adviser to the Director of the State Border Service
Sead LISAK	Deputy Director of the State Information and Protection Agency (SIPA)
Kos DUŠAN	Department for Internal Control of SIPA

**B. Federation of Bosnia and Herzegovina**

**Ministry of Interior**

Dragoljub TOMIĆ	Adviser to the Director of Police
Mustafa HUJDUROVIĆ	Chief Inspector
Olga KARAKIĆ	Inspector, Professional Standards Department

**Ministry of Health**

Vesna ŽILJEVIĆ-SERTIĆ	Head of Legal Department
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**Ministry of Justice**

Rešad FEJZAGIĆ	Assistant Minister responsible for the execution of criminal sanctions
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**Ministry of Labour and Social Affairs**

Adila HODZIĆ  
Miroslav MAUHER

Senior Adviser, Social Protection of Children  
Head of Department of Family

**C. Republika Srpska**

**Ministry of Interior**

Vrećo SLAVIŠA  
Siniša KOSORIĆ

Inspector  
Inspector

**Ministry of Health and Social Welfare**

Nedeljko MILAKOVIĆ  
Stevan JOVIĆ

Assistant Minister  
Senior Consultant

**Ministry of Justice**

Milan KOSOVIĆ

Inspector, Department for the execution of criminal  
sanctions

**D. Other authorities**

Mariofil LJUBIĆ  
Safet PASIĆ

State Ombudsman  
State Ombudsman

Đuro GLOBLEK

Deputy Ombudsman of the Federation of Bosnia and  
Herzegovina

Milan ŠUBARIĆ

Deputy Ombudsman of the Republika Srpska

Zdravo KNEZEVIĆ

Chief Prosecutor of the Federation of Bosnia and  
Herzegovina

**E. International and Non-Governmental Organisations**

Representatives of the Helsinki Committee

Representatives of the International Committee of the Red Cross (ICRC)

Representatives of the Organisation for Security and Cooperation in Europe (OSCE)

