



CPT/Inf (2009) 26

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

from 19 to 30 March 2007

The Government of Bosnia and Herzegovina has decided to place these responses in the public domain. The report of the CPT on its March 2007 visit to Bosnia and Herzegovina is set out in document CPT/Inf (2009) 25.

Strasbourg, 14 October 2009

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A. Response of the National Authorities concerning the implementation of the recommendations contained in paragraphs 35 and 71 of the report of the CPT

“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.”**

“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. 5¹ 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.”

¹ 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 (through mouth), and after the therapeutic intervention in the Emergency centre, which is most likely the immediate cause of death.”

“35. Face aux constatations de la délégation, la direction de la Prison de Zenica a décidé de demander au Médiateur d’Etat de lancer immédiatement une enquête sur les allégations de mauvais traitements. En outre, la délégation a fait part de ses constatations au Procureur Général de la Fédération de Bosnie–Herzégovine.

Le CPT souhaite recevoir une copie du rapport du Médiateur et être informé des mesures prises par le Procureur Général.

En outre, **le CPT recommande aux autorités compétentes de faire clairement comprendre au personnel de la Prison de Zenica qu’il est inadmissible de maltraiter physiquement des détenus et que tout manquement à cette règle sera sévèrement sanctionné.”**

“71. L’élaboration d’une véritable politique relative à la toxicomanie devrait être prioritaire, car les stupéfiants semblaient être faciles à se procurer à l’intérieur des prisons visitées, ce qui avait parfois de graves conséquences. Ainsi, à la Prison de Zenica, la délégation a étudié le cas d’un décès en détention, le 13 novembre 2006, apparemment dû à une overdose d’héroïne. A l’origine, on avait voulu faire croire à la délégation que ce détenu était décédé à l’unité de soins, où il avait été placé à la suite de sa sortie de l’hôpital. Toutefois, il est apparu qu’avant son décès, le détenu avait été transféré de l’unité de soins à une cellule capitonnée du Pavillon II, où il est mort dans les heures qui ont suivi sa sortie de l’hôpital. Le procureur a apparemment ouvert une enquête sur la mort de ce détenu.

Pendant sa visite, la délégation du CPT a demandé que lui soient communiqués les résultats de l’enquête ainsi qu’une copie du rapport d’autopsie. A ce jour, ni le rapport du procureur ni le rapport d’autopsie n’a été reçu. Cependant, dans une lettre en date du 31 mai 2007, les autorités de Bosnie-Herzégovine ont informé le CPT qu’une commission de deux psychiatres et un psychologue avait étudié le cas du décès de ce détenu. La commission a conclu que le détenu était mort d’une overdose et que tout le personnel médical impliqué dans l’affaire avait agi de manière satisfaisante. Toutefois, la conclusion n° 5² du rapport semble suggérer que le détenu serait mort après avoir ingéré des drogues illicites à son retour de l’hôpital, alors qu’il se trouvait soit dans l’unité de soins, soit dans la cellule capitonnée.

Or, une telle conclusion serait inquiétante car elle signifierait que les autorités de la Prison de Zenica ne sont même pas en mesure d’empêcher qu’un détenu récupérant d’une overdose et hébergé dans une structure de soins ne s’approvisionne en substances illicites. La cellule capitonnée est placée sous vidéosurveillance et les films vidéo auraient pu être très utiles pour déterminer le cours exact des événements cette nuit-là ; mais la délégation a appris que la cassette aurait été perdue. D’un autre côté, la conclusion n°5 ne peut être étayée sur la base des données qui ont été fournies ; la présence de morphine dans l’estomac ne constitue pas une base suffisante permettant de conclure qu’elle est due à une ingestion récente par voie orale. De surcroît, il est assez peu convaincant qu’un détenu ayant déclaré se sentir bien à 3h50 du matin soit retrouvé inconscient 15 minutes plus tard, pour ensuite constater le décès.

Le CPT souhaite recevoir le rapport de l’enquête menée par le procureur, ainsi qu’une copie du rapport d’autopsie et de toxicologie. En outre, le CPT recommande que les conclusions de la commission susmentionnée soient transmises au procureur responsable de l’enquête sur le décès.”

² La conclusion n° 5 du rapport de la Commission indépendante professionnelle du 18 mai 2007 mentionne «Lors de la réanimation du patient, un antidote approprié a été utilisé, le Naloxone en infusion, prescrit par dose qui a contribué à stabiliser les fonctions vitales, en recouvrant la conscience et en rétablissant la communication avec le défunt. Le rapport de l’analyse toxicologique selon lequel aucune trace d’héroïne (diacetylmorphine), ni de ses métabolites n’ont été trouvés, confirme également cette conclusion ; ils ont été retrouvés dans les éléments vomis recueillis peu de temps après le décès. Il pourrait s’agir d’un usage oral abusif d’héroïne (par voie buccale), qui a eu lieu après l’intervention thérapeutique aux Urgences, qui serait vraisemblablement la cause immédiate du décès ».

REPORT

**on the activities undertaken by the authorities of Bosnia-Herzegovina
towards implementation of recommendations
contained in paragraphs 35 and 71 of the Report
by the *European Committee for the Prevention of Torture
and Inhuman or Degrading Treatment or Punishment (CPT)***

In accordance with recommendations, comments and requests for information by the *European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)* contained in the CPT's Report following its monitoring carried out in Bosnia-Herzegovina from 19 to 30 March 2007, the authorities of Bosnia-Herzegovina are obliged to submit two reports.

The first Report by the authorities of Bosnia-Herzegovina is pertaining to responses under recommendations contained within the CPT's Report (paragraphs 35 and 71), in which case the authorities of Bosnia-Herzegovina are obliged to provide the response within three months.

The Council of Ministers of Bosnia-Herzegovina, at its 24th session held on 29 September, considered and adopted the Report to the Council of Ministers by the *European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)*.

The State Ministry for Human Rights and Refugees and the Liaison Officer of the authorities of Bosnia-Herzegovina for the CPT have coordinated activities with competent institutions of Bosnia-Herzegovina and the Federation of Bosnia-Herzegovina, i.e. the Office of the State Ombudsman of B-H, the Ministry of Justice of the Federation of B-H, the Prosecutor's Office of the Federation of B-H and the Cantonal Prosecutor from Zenica, with obligation to prepare responses to paragraphs 35 and 71 of the CPT's Report.

The Office of the State Ombudsman of B-H has informed the Ministry for Human Rights and Refugees it had submitted to the CPT's Secretariat a Special Report on the visit to the Correctional Institution Zenica, under recommendation stated in paragraph 35 of the Report.

As regards the response to recommendations from paragraphs 35 and 71 of the CPT's Report, the Prosecutor's Office of the Federation B-H has submitted a response in the form of Report to the Ministry for Human Rights and Refugees, which we present here.

The Prosecutor's Office of the Federation B-H has submitted the CPT's Report to all Chief Prosecutors in the Federation B-H and all Cantonal Prosecutors in the Federation of B-H for their information.

They have been particularly recommended to be familiar with the instructions on page 57 of the Report dealing with obligation of the prosecutor in cases when the accused for criminal offences claim to be ill-treated by the law enforcement agency officials. At the same time, Chief Cantonal Prosecutors are obliged to inform all cantonal prosecutors under their jurisdiction on the mentioned Report. The Prosecutor's Office of the Federation B-H has reminded all chief cantonal prosecutors in the Federation of B-H on their obligation to investigate in detail all allegations of ill-treatment of detained and sentenced persons by authorised official persons from the police and prison establishments. Chief Cantonal Prosecutors have been ordered to inform regularly the Prosecutor's Office of the Federation B-H and to submit reports on work in all situations when cantonal prosecutors act in accordance with the instructions provided in page 57 of the CPT's Report concerning an obligation of the prosecutors to investigate all allegations of ill-treatment of the accused for criminal offences by the law enforcement agency officials.

The Ministry of Justice of B-H and the Ministry of Justice of the Federation of B-H have been submitted the recommendation estimating it would be needed, given the submitted CPT's Report, to consider recommendations of the Report in the framework of the forthcoming amendments of the criminal process laws in B-H, and to determine legal provisions in accordance with them pertaining to the safeguards against

ill-treatment of detainees, towards their faster and more efficient access to a defence attorney, doctor, and third persons on their own choice.

All federal prosecutors in the Prosecutor's Office of the Federation B-H, and all chief cantonal prosecutors in the Federation of B-H have been provided with the Judgement of the European Court for Human Rights in Strasbourg "*Colibaba vs. Moldova*" for their information. The Judgement states, *inter alia*, that a range of serious defects has been made in investigation carried out by local authorities in a case of ill-treatment of a detainee by responsible official police officers. The Judgement also states the violation of Article 3 of the European Convention on Human Rights and Fundamental Freedoms. Given that we consider it is useful to be familiar with the Judgement, chief cantonal prosecutors are obliged to provide all cantonal prosecutors with the Judgement for their information.

The Ministry of Interior of the Federation of B-H has also been ordered to investigate all concrete cases of psychophysical ill-treatment of detainees, and accordingly to immediately inform the authorised cantonal prosecutor. The MoI is obliged to collect under the supervision of authorised cantonal prosecutor all information which may be useful in criminal procedure, and to report the same prosecutor's office on the committed criminal offence, in a sense of provisions of Articles 233 and 234 of the Criminal Procedure Code of the Federation of B-H, given that the prosecutor's office and the police are unquestionably under clear legal obligation to investigate all cases of ill-treatment.

The Cantonal Prosecutor's Office of Zenica-Doboj Canton has passed the order on conducting investigation against a person employed as a guard in the Zenica Correctional Institution on the grounds of suspicion he has committed a criminal offence of ill-treatment in discharging of his duty from Article 182 of the Criminal Code of the Federation of B-H, together with a criminal offence of slight bodily injury from Article 173 para 1 in connection with Article 31 of the Criminal Code of the Federation of B-H in relation to the sentenced prisoner Miro Gasic. Moreover, the authorised prosecutor's office has submitted to the authorised Police Administration Zenica an order to undertake investigation towards establishing if any other person has committed criminal offences in the mentioned case. Investigation is underway.

The Cantonal Prosecutor's Office of Zenica-Doboj Canton will re-investigate circumstances in case of death of a prisoner Zvonimir Cabrajic towards determining if a criminal offence has been committed in case of his death. Investigation of the prosecutor's office has not been completed.

The Cantonal Prosecutor's Office of Sarajevo Canton has re-investigated allegations by FM., whose real name is MK, on the alleged ill-treatment by authorised official persons. The investigation has found allegations of the named person well-founded. In this direction we would like particularly to mention that the named person was interrogated as a witness on 27 March 2007. During the investigation he claimed that he had not received injuries by authorised official persons from the police or the Correctional Institution, but in a car accident in flight from prison, after which he had been examined by medical staff in Emergency Centre, medical staff of the Correctional Institution in Sarajevo, and afterwards by an authorised forensic medicine expert.

Enclosed find the final version of conclusions adopted at the meeting with Chief Entity Prosecutors on updated preliminary conclusions and recommendations pertaining to the programme on monitoring investigation procedure actions conducted by the OSCE Mission to B-H from 6 November 2007, given that we consider conclusions presented in Item 1 be of the utmost importance for the CPT's Report, and that they form an integral part of the Report by the authorities of Bosnia-Herzegovina.

The Ministry for Human Rights and Refugees of B-H, following correspondence with the Chief Prosecutor's Office of Zenica-Doboj Canton under request for submission of documents from Paragraph 71 of the CPT's Report has been provided with the Autopsy Report by the Chief Prosecutor's Office of Zenica-Doboj Canton and Chemical-Toxicology Report by the Department for Forensic Medicine and Criminology with the Medical School Zagreb, in the case KTA-466/06, which we transmit to the CPT in its original text, and which is an integral part of the Report by the authorities of Bosnia-Herzegovina.

Appendix

**Organisation for Security and Co-operation in Europe
Mission to Bosnia-Herzegovina**

**Conclusions adopted at the meeting with Chief Entity Prosecutors
on updated preliminary conclusions and recommendations
pertaining to the programme on monitoring investigation procedure actions conducted by the OSCE
Mission to B-H**

Sarajevo, 6 November 2007

Participants:

- Amor Bukic, Chief Prosecutor of Republic Srpska
- Zdravko Knezevic, Chief Prosecutor of the Federation of B-H
- Slavo Lacic, Deputy Chief Prosecutor of District Brcko
- Lucio Valerio Sarandrea, Legal Adviser, Judicial and Legal Reform, Human Rights Department, OSCE Sarajevo
- Amra Ovcina-Hamidovic, Legal Adviser, Judicial and Legal Reform, Human Rights Department, OSCE RC Tuzla
- Nela Sefic, Legal Adviser, Judicial and Legal Reform, Human Rights Department, OSCE RC Mostar
- Zoran Petrovic, Legal Adviser, Judicial and Legal Reform, Human Rights Department, OSCE RC Banja Luka
- Anna Buntic, Trial Monitor, OSCE TU Mostar
- Dusanka Sekulic, Trial Monitor, OSCE TU Banja Luka
- Sasa Bojanic, Trial Monitor, OSCE TU Prijedor
- Ilvana Delic, Trial Monitor, OSCE TU Sarajevo
- Bojan Dujakovic, Trial Monitor, OSCE TU Sarajevo
- Goran Rubil, Trial Monitor, OSCE TU Dobojski
- Svjetlana Mujezinovic, Trial Monitor, OSCE TU Tuzla
- Halisa Skopljak, Legal Assistant, Legal Adviser, Judicial and Legal Reform, Human Rights Department, OSCE Sarajevo

The following conclusions have been adopted at the meeting of representatives of the Human Rights Department of the OSCE and Chief Entity Prosecutors and Deputy Chief Prosecutor of District Brcko:

1. Response of the Prosecutor to accusation of ill-treatment. Results achieved by means of adoption of obligatory instructions from June 2007 and review of the latest cases
 - Participants agreed to continue further efforts towards improvement of the response by the prosecutor to allegations of ill-treatment. In this view "obligatory instructions" previously adopted by Chief Entity Prosecutors will be periodically submitted to Cantonal and District Prosecutors given frequent replacement of officials in prosecutor's offices, for the purpose of familiarisation of all officials with the instruction.
 - The latest Judgement by the European Court for Human Rights in Strasbourg "*Colibaba vs. Moldova*", whose parts were presented by the OSCE in the course of the meeting, sets higher standards in the obligation of the State to conduct independent, immediate and efficient investigation

in case of allegations of ill-treatment. It has been proposed that Chief Prosecutors familiarise other prosecutors with this Judgement and the standard it sets.

- The initiative has been supported on the establishment of legal regulations sent to the Ministries of Justice of B-H and the Federation of B-H by Mr. Knezevic. These regulations propose amendments to the Criminal Procedure Code in a way that rights of the suspects deprived of liberty be expanded, i.e. establishment of the right of the suspect to medical examination, and the right on notification of his family, in accordance with the recommendations by the Council of Europe Committee for the Prevention of Torture. The OSCE will closely consider the proposed text of such amendments following their development and determine ways for their support.
- In case the OSCE notices during the investigation procedure monitoring the improper response by the prosecutor on the allegations of ill-treatment, the notice with information on the case will be submitted to the Chief Prosecutor of the Federation of B-H, the Chief Prosecutor of Republic Srpska and the Chief Prosecutor of District Brcko. At the same time the OSCE will notify responsible Chief Cantonal or District Prosecutor in the Prosecutor's Office conducting the case.
- It is needed to carry out additional training for the police officers on the issue of allegations of ill-treatment. For that reason the Human Rights Department of the OSCE will hold a meeting on this subject with the EUPM.

**B. Report by the authorities of Bosnia-Herzegovina
to the European Committee for the Prevention of Torture
and Inhuman or Degrading Treatment or Punishment (CPT)
Second Periodic Monitoring in Bosnia-Herzegovina**

After the Second periodic visit to Bosnia-Herzegovina carried out by the CPT in the period from 20 to 30 March 2007 and final remarks expressed at a meeting held with representatives of the authorities of Bosnia-Herzegovina (portfolio State, Entity and District Brcko Ministries, the State Border Service, the State Investigation and Protection Agency), the State and Entity Ombudsmen, the CPT's Delegation submitted the authorities of Bosnia-Herzegovina the Statement pertaining to undertaking urgent activities, implementation of ordered measures, and introduction of appropriate guidelines and procedures in places for persons deprived of liberty in Bosnia-Herzegovina.

The authorities of Bosnia-Herzegovina submitted the Report on measures ordered by the CPT within the set deadline, i.e. by 31 May 2007.

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) submitted the authorities of Bosnia-Herzegovina the Report on the visit to Bosnia-Herzegovina carried out in the period from 20 to 30 March 2007, which was adopted by the Council of Ministers of Bosnia-Herzegovina, at its 24th session held on 29 September 2007.

Appendix I is an integral part of the CPT's Report, and contains various recommendations, requests for information and comments.

The CPT requested the response of the authorities of Bosnia-Herzegovina with respect to recommendations in paragraphs 35 and 71 within three months.

At its 36th session held on 24 January 2008 the Council of Ministers of B-H considered and adopted the Report on activities undertaken by the authorities of Bosnia-Herzegovina as regards implementation of recommendations in paragraphs 35 and 71 of the of the CPT's Report.

Other obligations pertaining to reporting by the authorities of Bosnia-Herzegovina relate to providing within six months a response on various recommendations, comments and requests for information.

With a view of realisation of the mentioned obligation of the authorities of Bosnia-Herzegovina, the State Ministry for Human Rights and Refugees submitted the CPT's Report to portfolio State Ministries and institutions and Entity and State Ombudsmen, following its adoption by the Council of Ministers of B-H. The Report was submitted for the purpose of familiarisation with the subject Report and timely provision of responses to various recommendations, comments and requests for information by the CPT.

The Ministry for Human Rights and Refugees of B-H coordinated two meetings with representatives of portfolio Entity and State institutions, and Entity and State Ombudsmen, and received responses in the form of reports by the following Entity and State institutions:

- the Ministry of Justice of B-H
- the Ministry of Justice of the Federation of B-H
- the Ministry of Justice of Republic Srpska
- the Ministry of Interior of Republic Srpska
- the Ministry of Health and Social Protection of Republic Srpska
- the Ministry of Labour and Social Policy of the Federation of B-H, and
- the Office of the Ombudsman of Republic Srpska.

Before presentation of individual reports by portfolio Entity and State Ministries, and considering the fact that Reports by Entity and State Ministries of Justice did not provide a response to **Item 30 of the CPT's Report (clarification as to the role of courts and judges in the operational decisions concerning remand prisoners)**, we herewith provide the following explanation.

Under provisions of Articles 145 to 161 of the Criminal Procedure Code of the Federation of B-H, Articles 188 to 195 of the Criminal Procedure Code of Republic Srpska, and Articles 131 to 147 of the Criminal Procedure Code of B-H, as well as implementary regulations (The Rulebook on House Rules in Detention Facilities), the court conducting criminal proceedings has certain authorities in operational actions of the management of correctional institution in which the person concerned serve detention measure.

- a) Article 18 of the *Rulebook on House Rules in Detention Facilities in the Federation of B-H* regulates that a juvenile is placed into detention separately from adult inmates. Exceptionally, in the lack of space or if it is estimated that a stay of a juvenile alone in a room may detrimentally affect his mental health, a juvenile may be placed into a room with an adult upon authorisation of the court conducting criminal proceedings.
- b) The court has a role in referring a detainee to treatment into a health care facility outside the detention facility. Article 49 of the Rulebook regulates that a detainee is referred to treatment into a health care facility outside the detention facility by a correctional institution doctor, with authorisation of the court conducting criminal proceedings.
- c) Article 71 of the Rulebook regulates that the court conducting criminal proceedings may impose for a disciplinary violation by a detainee, a disciplinary penalty of restriction of visits and contacts with outside world. This restriction shall not apply to communications of the detainee with the defence attorney or a consular official.

Confusion was caused by the provision of Article 90 of the *State Law on Execution of Criminal Sanctions, Detention and Other Measures* (Official Gazette of B-H, Nos. 13/05, 53/07 and 97/07) which does not differentiate disciplinary measures which may be pronounced to persons serving prison sentence and to persons in custody. In accordance with these provisions, detainees may be pronounced a disciplinary measure of placement into solitary confinement cell. These provisions will be changed by first amendments to the State Law on Execution of Criminal Sanctions, Detention and Other Measures.

We use this opportunity to inform you that within the CARDS programme of technical assistance to Bosnia-Herzegovina the **Project "Support to the Reform of Management in Prisons in Bosnia-Herzegovina"** was accepted by the European Commission. It is implemented by an expert team of the Austrian Ministry of Justice, in cooperation with the Ministry of Justice of B-H, Ministries of Justice of the Federation of B-H and Republic Srpska, and Judicial Commission of District Brcko B-H.

The main purpose of this Project was to establish efficient and professional operation of Detention

Unit at the State level, the Court Police of B-H, and institutes at Entity level, to be realised through training of court police and correctional institution police with specially selected topics; to carry out construction and architectural estimate of the space and situation with facilities accommodating correctional institutions; to prepare in this direction a financial plan to provide proposals and estimate for future needed investments to adaptation, reconstruction and upgrading the existing correctional facilities, in order to contain all internal required conditions for accommodation of detainees and prisoners, in accordance with European standards in the field of prison system. Given that at the end January 2008 a last activity stipulated by this Project was realised, on 21 February 2008 a final Conference was organised in Sarajevo, aimed at presentation of the Project.

The Ministry of Justice of B-H

As regards the meeting held on 17 October 2007 in the Ministry for Human Rights and Refugees of B-H, the Ministry of Justice of B-H submits the following information:

As regards Item 26 of the Report pertaining to construction of the State Prison, we herewith inform you that following completion of property-legal procedure on exception and allocation of construction land to the Ministry of Justice of B-H in settlement Naklo in East Ilidza Municipality, design documentation was made, parcelisation of the land was carried out, town-planning consent was received, expropriation of land was made. Contract was concluded for construction of infrastructure facilities for the needs of the State Prison, i.e. on 24 January 2007 contract was signed on execution of works on arrangement of municipal construction land for the State Prison between the Ministry of Justice of B-H as the investor and East Ilidza Municipality as the implementer.

Under the concluded contract, the land had to be arranged as regards water supply and wastewaters diverting, telephone connection, high voltage line and gas installation, construction of access road. Main infrastructure works were performed and their technical reception is underway. Underway are works on arrangement of access road and the costs are born by the funds of the Budget planned and approved for that purpose in 2006.

An amount of BAM 2 million has been approved in the Budget for 2007 for continuation of works on the construction of the State Prison. Moreover, additional BAM 2 million were planned in the Budget for 2008 for the same purpose, and the approval is pending. Estimated costs for the construction of the entire complex of the State Prison, constructed in accordance with the latest European prison standards, are some EUR 15 million. For that reason Bosnia-Herzegovina needs donor funds and several conferences were held as regards the mentioned during which donor funds were promised providing that Bosnia-Herzegovina previously start construction of the State Prison with its own resources.

Given that Bosnia-Herzegovina is in the final phase of infrastructure works, concrete response of potential donor is pending in the forthcoming period.

As regards Item 36 of the Report in which the CPT recommends that the relevant authorities continue to give a high priority to the development of prison staff training, we inform you that in the course of 2005 the Council of Europe performed intensive training of the prison staff of the Detention Unit at the State level. In the course of 2006 the Ministry of Justice of B-H, with the support of the Council of Europe, prepared the Programme on Training of Correctional Institution Police at the State level, adopted by the Minister of Justice of B-H on 28 March 2006.

Within the Programme training was performed in eight segments, namely four from professional training and knowledge, and four from practical training: the use of firearms, fire prevention, application of defence techniques and defeating attackers, and training on counter-commando protection.

In the course of 2007 the Ministry of Justice of B-H continued with further professional training of correctional institution police on: application of the State Law on Execution of Criminal Sanctions, Detention and Other Measures, application of bylaws on implementation of the Law, acquisition of knowledge on penological adult education and elements of psychology of personality, and practical topic on application of defence techniques.

The *Rulebook on Conditions, Manner and Programme of Taking State Examination for Correctional Institution Employees*, published in the Official Gazette of B-H, No. 56/05 from 16 August 2005 was adopted towards attaining larger professional and educational standards at the level of the Ministry of Justice of B-H. Under the Programme, correctional institution employees take state exam from the field of constitutional system, elements of state administration system, elements of administrative procedure, elements of working relations and office work, criminal sanctions execution system, elements of criminal law and criminal proceedings, elements of penological adult education and elements of psychology of personality with elements of psychopathology. Passing the state exam is a legal requirement for further performance of jobs and tasks of correctional institution employee, i.e. policeman. The Rulebook determines that employment is terminated if a person concerned does not pass the state exam.

In the meantime all technical, organisational and legal conditions have been met for carrying out these exams. Therefore the Commission established by the Decision of the Minister of Justice as of 30 October 2007 started with scheduling state exams, which have to be completed by 31 December 2007 inclusive.

As regards Item 55 in which the CPT recommends that the relevant Entity authorities establish, as soon as possible, high-security units in Zenica and Foča prisons, we inform you that on 31 October 2005 the Ministry of Justice of B-H addressed letters of recommendation to the Prime Ministers of the Governments of the Federation of B-H and Republic Srpska, and to the Ministers of Justice as regards the necessity of construction of high-security units in Zenica and Foča prisons. Moreover, on 11 June 2007 the Ministry of Justice of B-H in its letters addressed Entity Ministries of Justice reinitiated realisation of the mentioned projects, stating the situation in the field of caring for vulnerable convicted persons in both Entity correctional institutions, as well as recommendations of the Council of Europe in this regard.

As regards Item 66 concerning prison health-care services, we inform you that in the course of 2007 the Ministry of Justice of B-H, recognising the hunger strike problem in prisons, initiated larger coordination between the Entity Ministries of Health and correctional institutions, particularly given that positive legal regulations stipulate supervision by the Ministry of Health as regards health and sanitary care of detainees and prisoners. Moreover, the Ministry of Justice has supported the recommendation of the Council of Europe that in future phase of development of health care, besides the recruitment of additional medical staff, creation of a new job in Ministries of Justice should be considered, i.e. health care advisor which would deal with issues of health care development in prisons.

As regards Item 70, we inform you that on 18 October 2007 the Ministry of Justice of B-H sent a notification to the *Commission on Eradication of Abuse of Drugs* with the Council of Ministers of B-H following the request of the European Committee for preparation of the strategy on prevention of drug use in prisons in B-H as a part of the national strategy.

As regards Item 107 pertaining to reports on concrete steps being taken by B-H as regards the establishment of the State-level psychiatric institution in relation to information by this Ministry to you from 18 May 2007, we inform you that the Government of Republic Srpska informed this Ministry on 22 May 2007 that the Republic Srpska expressed intention to be the founder of the Sokolac Forensic Psychiatry. On 15 August 2007 the Government of the Federation of B-H informed the Council of Ministers of B-H, i.e. the Ministry of Justice of B-H that it gave agreement for the establishment of the Sokolac Forensic Psychiatric Institution, the Council of Ministers of B-H being its founder. In case of failure to reach such agreement, the Government of the Federation of B-H will consider the possibility of independent solution of the issue concerned, laying claim to the use of part of Swiss Confederation donor funds, used partly in the Federation of B-H through the Project Tero.

For these reasons, on 13 August 2007 the Ministry of Justice of B-H prepared the information on possible directions in overcoming the problems with the proposal of conclusions and forwarded it for consideration and making of appropriate decision to the Council of Ministers of B-H. The Information was considered at the 24th session of the Council of Ministers of B-H held on 27 September 2007. During the session declaration on information was delayed, and concerning the mentioned the Council of Ministers of B-H adopted the conclusion that the Chair of the Council of Ministers of B-H organise a meeting with Entity Prime Ministers and portfolio Ministries for the purpose of harmonisation of positions and solving questions at issue (Notification on the Conclusion of the Council of Ministers of B-H no. 05-07-2274-9/07 from 1 October 2007).

The Ministry of Justice of the Federation of B-H

Ill-treatment

The prison staff in Close-Type Correctional Institution in Zenica and other correctional institutions in the Federation of B-H have been familiarised several times with a clear message that physical ill-treatment of prisoners is not acceptable and will be dealt with severely. Such obligation and a message that any ill-treatment of prisoners is not acceptable clearly comes from Articles 144 to 150 of the *Law on the Execution of Criminal Sanctions in the Federation of B-H* (Official Gazette of the Federation B-H, Nos. 44/98 and 42/99), as well from all individual documents as regards the use of means of coercion against prisoners. Unfortunately, sometimes it is unavoidable to apply means of coercion, but only within the limits of authorities provided in the law and provisions of the *Rulebook on the Manner of Performance of Security Services, Arms and Equipment, the Use of Firearms, Official Identity Card and the Form of Uniform of Prison Police – Guards in the Facilities for Serving Prison Sentence in the Federation B-H* (Official Gazette of the Federation B-H, No. 15/99).

As regards the recommendation on priority need to develop prison staff training towards acquisition of knowledge and interpersonal communication skills with prisoners, we fully accept it and support to the greatest extent possible, through internal training programmes and programmes implemented in Bosnia-Herzegovina through the support of the European Commission, the Council of Europe and other international and local governmental and nongovernmental agencies and organisations.

As regards the recommendation on inclusion of results of every medical examination in the medical file of the sentenced person, it is an explicit obligation of medical staff and is not a practice only in exceptional cases of rules violation. This Ministry and the authorities of the Federation of B-H will further insist on legality and autonomy of medical staff from any opposite requests.

As regards the recommendation on informing the relevant prosecutor on injuries of sentenced persons which have characteristics of a criminal offence, this is legal obligation of the prison management. As per our knowledge, such incidences are regularly reported, leaving the right to the prosecutor to estimate whether it is necessary to bring criminal charges and initiate investigation. Unfortunately, overloaded with a large number of complaints with clear grounds of suspicion, prosecutors often leave the prison managements to solve such cases through procedures for determination of disciplinary liability of those responsible for injuries.

As regards the recommendation on obligatory transfer of staff members to other duties pending the results of the investigation, unfortunately this is rarely in reality due to uncoordinated organisation and systematisation of posts (assignments) with the collective prison sentence serving system and the structure of available prison capacities.

As regards the recommendation to draw up a comprehensive plan to tackle inter-prisoner violence, it is unreservedly accepted, and regardless the fact that parts of the plan are included within other working plans and programmes, this Ministry will ask from all correctional institutions the proposals of individual plans and estimate whether to give agreement on them, or issue an unique plan for prevention of incidence of inter-prisoner violence, which is evidently present in prisons in Bosnia-Herzegovina due to the collective prison sentence serving system (paragraph 51).

Staffing

As regards the recommendation on assessment of the staffing levels required to provide a safe environment for staff and inmates alike, the management of the Close-type Correctional Institution in Zenica complied partly with the recommendation through recruitment of 12 new prison police officers. However, this is not sufficient given constant fluctuation of employees and particularly due to the collective prison sentence serving system, so this remains an important and permanent task both of this Institution and other institutions in the Federation of B-H (paragraph 56).

It will be possible to carry out a comprehensive prison staff recruitment policy only after establishment of the unique prison management, as recommended and expected in the forthcoming period (paragraph 58).

Material conditions

Every inmate has and has to have his/her own bed with clean bedding. There are exceptions from this explicit request only in exceptional circumstances when it is necessary to receive larger number of detainees than installed capacities, which in any case exceed standards. All attempts to increase detention capacities in Sarajevo Prison have not yielded results due to insufficient understanding by those who exert largest pressure for receiving larger and larger number of detainees. Management of the Half-Open Correctional Institution in Sarajevo may not allow itself to reject reception of new detainees beyond optimal capacity, and is justifiably exposed to criticism (paragraph 60).

Regime

As regards recommendation on undertaking the measure to improve activities for remand prisoners and longer outdoor exercise in the Remand Prison in Sarajevo, certain organisational measures have been undertaken. However, the problem will remain unless request for return of premises of the 1st and 2nd floor of the so-called "Central Prison" is met, used at the moment by Cantonal Court and the State Ministry of Justice (paragraph 63).

Health-care services

As regards the recommendation on improvement of prison health-care services, 2004 Guidelines of the Council of Europe have not been complied with yet. In the absence of competence of the Ministry of Health of the Federation of B-H, a unique inspectorate service has been established, health inspectorate being its part (paragraph 66). Recruitment of additional medical doctors is limited by amendments to the regulations and approval of additional budget (paragraphs 67, 69, 70 and 71).

Discipline, segregation, and means of restraint

As regards the recommendation to ensure that a prisoner is guaranteed the right to appeal to an external body against the imposition of a disciplinary measure, besides introduction and recognition of a new system of dealing with hearing of sentenced persons` appeals, taken by Scottish prison system with the assistance of the Council of Europe, law and other regulations enable lodging complains to the Ministry of Justice of the Federation of B-H, Ombudsmen and Parliamentary bodies for the protection of human rights of sentenced persons (paragraph 75).

System pertaining to recording, reporting and subsequent approval of the means of restraint use has been established, in accordance with the law and corresponding regulations. In case of exceeding the authority stipulated in those regulations, disciplinary liability of official persons is determined (paragraphs 77-79).

Complaints and inspection procedures

Written instruction have been given and training of prison staff concerning the application of the mentioned new system of dealing with hearing of sentenced persons` appeals has been carried out. Law and other regulations enable lodging of complaints and petitions to the Ministry of Justice of the Federation of B-H, Ombudsmen and Parliamentary bodies for the protection of human rights of sentenced persons (paragraph 81). Underway is reorganisation of the Institutions of Ombudsmen in Bosnia-Herzegovina, and a specialised organisational unit for monitoring of realisation of fundamental human rights in prisons in B-H will be established (paragraph 82).

The Ministry of Justice of Republic Srpska

Upon receiving by the Council of Ministers of B-H the Report by the CPT on the visit to prisons in B-H carried out in the period from 19 to 30 March 2007, the Ministry of Justice of Republic Srpska considered its obligations as to comments, recommendations and requests for information by the CPT.

Upon receiving the Report, the Ministry of Justice of Republic Srpska has prepared an excerpt from the Report (part pertaining to prison establishments) and submitted it to all correctional institutions in Republic Srpska, as to familiarise them with comments, recommendations and requests for information by the CPT, and to enable them to undertake measures and actions on elimination of noticed shortages in their respective institutions, and to report on undertaken measures. All institutions were ordered to familiarise institution/prison staff dealing with inmates and detainees with the contents of the Excerpt from the CPT Report, that the staff observe the recommendations in the course of its work, that the staff consistently obey regulations and other procedures pertaining to persons deprived of liberty.

As regards recommendations from the Appendix I of the CPT Report, the RS Ministry of Justice and correctional institutions have undertaken all necessary measures and actions concerning elimination of notices shortages, to be presented in the text that follows.

Upon the proposal by the RS Government, the National Assembly of Republic Srpska enacted on 26 July 2007 the *Law on Amendments to the Law on Execution of Criminal and Misdemeanour Sanctions*, published in the Official Gazette of RS No. 68/07 from 1 August 2007, entered into force the eight day following its publication.

In this way the *Law on Execution of Criminal and Misdemeanour Sanctions of RS* (Official Gazette of RS, Nos. 64/01 and 24/04) was harmonised with the *State Law on Execution of Criminal Sanctions, Detention and Other Measures* (Official Gazette of B-H, No. 13/05), and its noticed vague wording was regulated. Based on the mentioned Law the RS Ministry of Justice has prepared new or amended the existing Rulebooks passed by the Minister. These have been forwarded to the Republic Srpska Legislature Directorate, established by the Government towards their harmonisation with the *Law on Amendments to the Law on Execution of Criminal and Misdemeanour Sanctions* and other subject laws.

Amended Article 321 para 1 (1) of the mentioned Law stipulates that juvenile prison sentence is served in Sarajevo East Correctional Institution. In September 2007 the RS Ministry of Justice secured necessary funds for implementation of this amendment. It also ordered the Director of the Sarajevo East Correctional Institution to renovate the existing building within the Institution complex for the juvenile prison needs, separated from the part of the Institution in which adult convicted persons serve a sentence. Besides renovation of the building, it was ordered to make workshops for training of juvenile inmates out of a hangar, to arrange external space (approach path, lawn, sport field) and to erect fence around the buildings. Juveniles are accommodated in a two-storey building; net surface is 320 sqm (ground floor 140 sqm and the floor 180 sqm). Capacity of the building is 40 persons.

Construction works on the building have been completed (full installations, floor, carpentry) and all necessary contents have been built (three, or five dormitories if necessary, living room, dining room, classroom, library, dispensary, offices, visiting room, sanitary facilities - bathrooms, WC booths with washbasins, corridors and other accompanying contents) for the purpose of juvenile imprisonment sentence serving.

Besides the building accommodating juveniles, in this closed area there is a metal hangar with some 700 sqm surface, which will be turned into workshops in which sentenced juveniles will learn practical part of construction, mechanical and electrician's trade.

External contents in this complex are lawn and grass sport field with some 1000 sqm surface surrounded by footpath.

A 3 metre-high wire fence will be put up around the complex (3 m frames), with 1 metre-high razor blade wire on the top.

In order to put the juvenile prison into function, besides construction of the mentioned contents, it is necessary to purchase furniture and equipment for its interior fit up, to build video monitoring and to select, recruit and educate prison staff working with sentenced juveniles.

Taking into consideration the aforementioned procedures to be carried out, our estimate is that a juvenile prison could be fully operational in two months. In this way recommendation from paragraph 28 of your Report is compiled with.

As regards paragraph 30, it does not apply to correctional institutions in RS. Article 36 of the *Rulebook on House Rules in Detention Facilities* (Official Gazette of RS, No. 44/04) stipulates that the Director immediately informs an authority conducting the proceedings on a disciplinary offence by a detainee. Upon the proposal of the Director of the institution, the authority conducting criminal proceedings may impose for a disciplinary violation by a detainee, a disciplinary penalty of restriction of visits and contacts with outside world (letters, parcels, and similar). This restriction shall not apply to communications of the detainee with the defence attorney.

Article 37 of the Rulebook stipulates that an authority conducting the proceedings makes an order pronouncing a disciplinary fine to a detainee. A detainee is allowed to lodge an appeal against the order to the Court Council according to Article 24 para 2 of the Criminal Procedure Code. An appeal does not stay the execution of the Order. The Order by the Court Council is final.

Article 38 of the Rulebook stipulates that a detainee whose behaviour presents a risk for safety of the institution may be transferred or segregated to other cell by the Director or in urgent cases by an official on duty, while in severe cases a detainee may be tied, which lasts for as long as there are grounds for such state, and notify the court conducting the proceedings accordingly. These measures against a detainee may last up to 24 hours, while approval by the court conducting the proceedings may be requested for the prolongation of the measure.

For the time being this functions well in the practice of correctional institutions of RS, there have been neither violations of these provisions nor appeals by detainees.

Recommendation in paragraph 36 of the CPT Report on prison staff training in correctional institutions in RS is not correct, since training is carried out under the Training Programme organised and realised by the Council of Europe and under the Training Programme adopted by the Ministry of Justice in December for the following year, while its realisation is monitored by inspectors.

Moreover, recommendation in paragraph 37 is unfounded, since results of every medical examination are regularly included into the medical file of persons deprived of liberty, and whenever injuries are recorded by a doctor which are consistent with allegations of ill-treatment the matter is brought to the attention of the Director of the institution and the Prosecutor.

As regards paragraph 43 of your Report, besides information on riots in Doboj Prison delivered to you in May 2007, the Ministry of Justice and Doboj District Prison have undertaken the following:

- significant staffing has been carried out, so at the moment 73 or 95% out of 77 jobs stipulated by the Rulebook on Systematisation of Posts are filled, while it is planned to fill them completely;
- with a view of improvement of functioning of overall organisation of work of the Institution, amendments have been made or new instructions and plans have been passed regulating in detail Institution-level life and work. These are: the Instruction on Work of Guards at Guard Posts; the Instruction on Work of Re-education Service; the Instruction on Work of Health-care Service and Dispensary; the Instruction on Work of Canteen; the Instruction on Work of Laundry Room and Barbershop; the Instruction on the Use of Fitness Room; the Instruction on Work of the Library; the Instruction on the Use of Telephone in Ward for Detainees and Convicted Persons; the Instruction on Work of Computer Club; the Instruction on Classification and Re-classification of Convicted Persons; the Rulebook on Systematisation of Posts of Convicted Persons; Fire Prevention Plan; Emergency Plan; the Plan on Reconstruction and Adaptation of Prison Building; and the Instruction for Admission of Various Prison Staff).

With a view of improvement of conditions for life, stay and leisure activities of convicted persons, and improvement of work of prison staff, in spite of financial problems in the 2007 Budget Plan, and with the assistance of the RS Ministry of Justice, funds were received from the special account; and the following was done through engagement of the prison management:

- damage done in the riots was repaired shortly;
- the whole building was whitewashed and the whole carpentry painted;
- spaces were found, separated from the Ward for convicted and detained persons, equipped and put into function for: prison first-aid station, dispensary, religious needs, library, sport activities (fitness room), visiting room, and intimate visits;
- interphone system was built, the use of telephones supervised and monitored;
- physical protection of building was strengthened by installation of obstacles, double doors, metal bars, electric locks, video-surveillance system was broadened from 8 to 19 cameras;
- installation for external securing of the prison was purchased and put into function;
- 5 computers, 3 TV sets, 2 DVD sets and 2 radio receivers for convicted persons purchased;
- 6 radio stations purchased and radio connection in the service of guard established;
- computer club for convicted persons established and equipped;
- underway are works on: building GSM jamming device for mobile phones in Detention Ward, alarm system reconstruction, reconstruction of bathroom in Detention Ward, arrangement of room for officials on duty and room for stay, preparation and dispatching of guards, storing of their clothes and equipment.

It should be mentioned that the Government of Republic Srpska assigned the Barracks "Ševarlije" of the ex-RS Army for the use by the RS Ministry of Justice for the needs of Doboj Prison. Its surface is some 100 ha, will be used for dislocation of a prison or will be disposed to Doboj Municipality, which would in return either upgrade another floor, renovate and equip the existing prison building (we mentioned the plan had been prepared), or find another location and construct a new prison building with required contents in accordance with international standards.

Doboj Prison has not yet freed itself from all persons sentenced to more than a year imprisonment. However, the Ministry of Justice takes care of this and does not transfer in it persons with imprisonment sentence longer than a year.

Security conditions in Doboj Prison has been improved and this institution functions well for the time being.

A similar military installation, i.e. Patkovača, Barracks of ex-RS Army was assigned by the Government of Republic Srpska to the Ministry of Justice for the needs of Bijeljina Prison. The Barracks is located in Bijeljina, has some 10.5 ha surface, with lots of constructed and preserved permanent buildings that could be renovated into prison contents under international standards. Bijeljina Prison already uses this facility for the needs of Economy Unit. Underway is preparation of the Plan pertaining to its renovation and construction of the entire prison complex under international standards, as to enable recent moving into these premises of the prison from the present location, which does not meet all those standards at the moment.

As regards recommendation from paragraph 51 that the relevant authorities draw up a comprehensive plan to tackle inter-prisoner violence in the prison establishments of Bosnia-Herzegovina, it is either unclear or translated badly. If this applies to RS correctional institutions, than such plan is contained in the *Law on Amendments to the Law on Execution of Criminal and Misdemeanour Sanctions* and in more than twenty five rulebooks, instructions and plans regulating these problems. It is more precisely regulated by Emergency Plans, prepared in all institutions and regularly updated, checked and monitored.

The correct solution for inter-prisoner violence elimination in correctional institutions in RS will be found only when single cell imprisonment system is established in correctional institutions, which cannot be done in the current institutions for the time being. In the course of construction of new prisons or facilities in the current RS prisons application of these standards will be taken into consideration, providing necessary funds are secured.

As regards recommendation in paragraph 55 on the establishment of high-security facilities and special treatment program in Foča Prison, we inform you that construction of this facility has started (under recommendation from the preceding paragraph) under the project and Information was submitted to you in May. It has been agreed with the contractor that the first phase (ground floor) has to be constructed by 31 March 2008. Given that the Ministry of Justice secured funds for continuation of second phase construction, preliminary procedures pertaining to contracting its construction have already begun. We consider that the entire facility with all contents submitted to you in the mentioned Information and under design documents you saw during your visit, would be completed by the end September 2008.

Your comment (paragraph 52) that the proposed small walking areas for outdoor recreation in the new high-security unit at Foča Prison should be reviewed is not correct and we raise sharp and justifiable objection. In the course of preparation of design documentation for this unit, (copied) design documentation of the State Prison was used, for which cornerstone was laid and preliminary actions carried out in Vojkovići, Ilidža Municipality. An agreement to the State Prison design documentation was given by official international representatives, on which there were no remarks in your previous reports, so we are astonished that you apply different criteria concerning the same design documentation.

As regards measures undertaken by RS authorities to guarantee the safety of the two prisoners who were transferred to Banja Luka Prison in the aftermath of the riot at Doboj Prison (paragraph 43), we inform you that after two days these prisoners were transferred to other correctional institutions in RS upon their request. One of them, a fight instigator was transferred to Trebinje Prison, while the other was transferred to East Sarajevo Correctional Institution. In talks with them it was found that they were satisfied with their safety and faced no problems. However, a prisoner transferred to Trebinje Prison requested two months ago to be transferred to another correctional institution, stating "he was bored" in that prison. He was transferred to Banja Luka Prison due to safety reasons and faces no problems for the time being. Maximum safety measures are regularly undertaken for these two prisoners and they are safe for the time being.

Under recommendation from paragraph 56 that vacancies are filled in Foča Prison, the Ministry of Justice has given agreement to fill the vacancies. Since your visit to date 14 prison guard have been recruited, while on 15 February 2008 an open competition to fill the position of new prison staff will be closed, namely: 6 prison guards (two managing guards), 2 educators and 3 instructors. Performance of tasks and safety in the institution will be improved with these new staff.

As regards the recommendation in paragraph 63 that prisoners should be able to spend at least 2 hours day outside their cells, and be engaged in purposeful activities of a varied nature, we inform you that they are carried out in correctional institutions of RS within the limits of their capacities, space and contents. This is regulated by Article 21 of the *Rulebook on House Rules in Detention Facilities*.

The recommendation on taking 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) has been observed in the RS Ministry of Justice and correctional institutions. Thus the Rulebook on Systematisation of Posts of the RS Ministry of Justice includes a coordinator-doctor tasked with organising and improving health-care service in the RS correctional institutions. The post will be filled soon. A medical doctor is permanently employed in five RS correctional institutions, while a number of nurses are needed. A medical doctor and a male nurse are engaged under contract in Trebinje Prison.

Medical doctors in RS correctional institutions carry out medical examinations of newly admitted prisoners immediately upon admission, in accordance with recommendation in paragraph 69 of your Report.

A comprehensive drugs policy has not been developed by BH authorities for the prisons in Bosnia-Herzegovina (paragraph 70).

As regards recommendations on appeals of prisoners against the imposition of a disciplinary measure, segregation and restraint (paragraphs 73-77), the RS Ministry of Justice regulated in its new Rulebooks the right of appeal by those persons when the mentioned sentences and measures have been imposed. Specific procedures and measures have been worked out in case when prisoners' mental health is disturbed (when there is risk of self-harm or suicide), with inclusion of the use of authorised means of restraint under international standards, and regular recording in the corresponding files.

As regards the recommendation on drawing up a clear directive on the use of pepper spray by guards in the RS correctional institutions (paragraph 79), it is regulated by Article 22 of the *Rulebook on the Use of Firearms and Other Means of Restraint by Security Staff – Prison Guards in RS Correctional Institutions* (Official Gazette of RS, No. 65/02). The new Rulebook contains your recommendations. Moreover, regular training of prison guards, carried out in all RS correctional institutions, stipulates a topic on chemical means (three hours), with the focus on pepper spray, the manner of use, protection measures, rendering of first aid and health care to prisoners and other persons attacked by chemical means, as well as corresponding recording and reporting on the use of chemical means.

In the last two years, since the prison guards have been equipped with pepper sprays, they have not been used. This means that the prison guards are familiar with handling and the use of chemical means – pepper spray, that they operate it responsibly and carefully in accordance with legal regulations.

The Ministry of Interior the Federation of B-H

As regards the CPT's Report on measures and actions the police establishments should undertake in order to meet recommendations, comments and requests for information, the Ministry has taken the following:

The Federation Minister of Interior and the Director of the Federal Police Administration informed by a letter No: 09-04-3-2305 from 27 April 2007 ministers and police commissioners of Cantonal Ministries of Interior on preliminary findings by the CPT Delegation. Moreover, through a letter No: 01-041 from 4 February 2008 forwarded to all cantonal ministries they have been familiarised with the contents of the CPT's Report, with the focus on recommendations, comments and requests for information pertaining to all police establishments.

All ministries have sent a clear message that the ill-treatment of detained persons is illegal, unprofessional, and will be the subject of severe sanctions, that appropriate measures should be taken to enable complete realisation of the three fundamental rights by persons deprived of liberty, stated in the CPT Report, that all unauthorised items be removed from police interview rooms, that the apprehension by the police of persons who appear mentally agitated is carried out in accordance with legal regulations and safeguards in place, that the programme of upgrading police holding facilities is pursued, that educational training courses are regularly organised for new recruited and for serving police officers.

Professional training was carried out for police officers in 15 various areas, organised by the Police Academy. Given the interest and expressed needs, six forms of training were realised in two terms. Training was successfully completed by 375 trainees. It is important to emphasise that training for members of the Army of B-H (Counter-commando Protection Unit) was realised in cooperation with the Federation Police Administration, as well as the training for inspectors for foreigners in two terms for the needs of the State Ministry of Security.

Training of police officers, organised by international organisations, was realised in 13 various areas, some of them being realised in two terms. A complete logistical assistance was provided by the Federation MoI Police Academy by giving premises, material-technical means, by providing accommodation and food for trainees and trainers. Training was successfully completed by 338 trainees from all police organisations from the territory of B-H.

On 16 May 2007 the **Federation Police Administration of the Federation MoI** sent a letter No. 09-34-9-247 to the Ministry for Human Rights and Refugees of B-H on actions of the Federation Police Administration and Cantonal Ministries of Interior as regards preliminary remarks of the CPT following its visit to places of detention in Bosnia-Herzegovina.

On 27 April 2007 and 4 February 2008 the Director of the Federation Police Administration sent letters to directors of all organisational units of the Federation Police Administration informing them on preliminary remarks by the CPT Delegation, as well on recommendations, requests for information and comments from the CPT Report. It was re-emphasised in these letters that the ill-treatment of detained persons was illegal and unprofessional and that all incidences of ill-treatment would be prosecuted as a matter of priority and perpetrators severely sanctioned.

The Director also sent a letter No: 09-04-3-2305 to the Federation Chief Prosecutor Mr. Zdravko Knežević, informing him on preliminary remarks by the CPT as regards the ill-treatment by the police of detained persons. The letter was sent to the Chief Prosecutor for the purpose of information and his action, and he was asked to submit information and comments as a response to the given comments. The Prosecutor informed the Federation Police Administration that each concrete ill-treatment incident had to be immediately brought to the attention of a competent Cantonal Prosecutor. All information that may be useful in the criminal proceedings has to be collected under his supervision, the report on committed crime submitted to the Prosecutor's Office, given that the Prosecutor's Office and the police are unquestionably under clear legal obligation to investigate all alleged ill-treatment cases.

A letter has been submitted to us by the Federation Police Administration, informing that it had secured that police officers treat persons deprived of liberty in accordance with Article 5 of the Criminal Procedure Code of the Federation of B-H. These persons are informed in their mother tongue about reasons of their apprehension, on the right to a defence attorney of their own choice, on the right that their families, consular officers of the foreign states whose citizens they are, or other persons designated by them be informed about their deprivation of liberty, and the right to a doctor. The *Instruction on the Treatment of Persons Deprived of Liberty*, issued on 22 March 2006 by the Director of the Federation Police Administration (No. 09-14-04-7-199) regulates the manner of admission of persons deprived of liberty to holding facilities, manner of their placement, health and hygienic conditions and food, records and accompanying documentation pertaining to apprehension, obligations of police officers, and other issues pertaining to the procedure and conduct of police officer towards a person deprived of liberty. The Instruction is implemented in practice.

The Instruction regulates the manner of treatment of persons with known history of mental disorder or illness, or of those who appear mentally agitated. Such persons are deprived of liberty by the moment of transfer to an adequate medical institution. Such persons are provided with the protection and constant supervision pending their transfer to an adequate medical institution, while these data are recorded into the Records on detention.

Five rooms for placement of persons deprived of liberty were prepared and put into function. The rooms meet necessary standards for this purpose and are equipped with video-surveillance.

There are no items such as baseball bats, replica pistols, and metal piping in police interview rooms of the Federation Police Administration. Receipts on temporary seizure of seized items are issued, and a file is kept accordingly.

In the course of 2007 a total of 147 police officers of the Federation Police Administration attended 70 various seminars, courses and other forms of police training from the programmes including combating terrorism and security studies, trafficking in persons and drugs, illegal immigration, combating trafficking in persons and sexual misdemeanour, accessibility of services, HIV prevention and treatment, support and development of inter-country referral programme for victims of trafficking in South-eastern Europe, etc.

In accordance with the Programme of Work of the Federation Police Administration, realisation of the following courses is planned for 2008, in cooperation with the Police Academy: human dignity and the police; stress and conflict solving; organised crime and drug abuse; carrying out special investigation actions; sexual misdemeanour documenting; war crimes documenting; etc. Moreover, continuation of cooperation is planned with Centres for the Training of Judges and Prosecutors, and with other judicial structures.

The Western Herzegovina Canton Ministry of Interior has informed us that in the course of 2007 all police officers attended training on human rights (human rights protection instruments, elements of freedom, and similar) in the framework of permanent in-service training. It is planned that in the course of 2008, besides permanent training, each police station send a police officer to a course named "Human Dignity and the Police", to be held at the Police Academy in Sarajevo.

Unauthorised items are not kept in police interview rooms, while temporarily seized items are treated in accordance with the Criminal Procedure Code. However, problems remain with storage and safekeeping of these objects, since they are kept in the premises of the Ministry of Interior.

The Una-Sana Canton Ministry of Interior has informed us that in the course of 2007 the Police Administration organised courses through the Department for Education and the Central Intelligence System in the following areas: application of the Criminal Code and the Criminal Procedure Code of B-H, police community work, protection of police officers in performing of official actions, apprehension and interrogation techniques of the suspects, and similar. Other courses on police work are scheduled for 2008.

Although there are no special police interview rooms equipped with audio and video recording, but interviews with witnesses and suspects are carried out in regular offices, there are no items such as baseball bats, metal piping, and similar. Interviews are carried out in accordance with the regulations, with presence of a police officer and a recording secretary.

Items seized during criminal investigation are stored in premises intended for such purposes in the Criminal Police Department both for police units and police stations until they are handed over to competent court or prosecutor's office, or for the purpose of expert evaluation. Records are kept on all these items, so there are no remarks as regards the manner of safekeeping of these objects, although the condition of these premises should be improved, which depends on available funds secured through the MoI budget.

The Minister and police commissioners at the level of the Una-Sana Canton MoI deliver a strong message that the ill-treatment of detained persons is illegal, unprofessional, and will be the subject of investigations. The Unit for Professional Standards, Internal Control and Inspection also gives its contribution to preventive combating of possible unprofessional conduct, and to legal prosecution of all unprofessional actions by police officers.

Recruitment of new police officers is carried out strictly, complying with stipulated procedures, taking into account ethnic and gender balance. New-recruited police officers are sent to Police Academy in Sarajevo to receive training for a police officer or junior inspector rank. The police officers' training is carried out permanently through various educations for the purpose of improvement of skills and knowledge and raising the level of professionalism in work.

The Police Administration of the Cantonal MoI fully observes stipulated procedures on treatment of persons deprived of liberty, including the right to inform a close relative via the phone, the right to a defence attorney and a doctor is secured, while records are kept accordingly. In accordance with the procedures, all persons are informed on their rights when being arrested. Underway are activities on improvement of record keeping on persons deprived of liberty, which are kept under stipulated rules and regulations.

It is planned that in the forthcoming period certain measures and actions are taken on providing better working conditions for police officers (providing specialised and well-equipped interview rooms, elimination of possible shortages in warehouses, holding facilities, and similar), in which full support by executive and legislative Cantonal authorities is expected. In this direction at the end 2007 a competent Security Commission of the Una-Sana Canton Assembly visited basic organisational units of the Cantonal MoI, giving full support to the equipping level improvement, and creation of better working conditions, while the Police Administration requests were presented through the budget planning.

The Central Bosnia Canton Ministry of Interior has informed us that in the course of 2007 police officers of the MoI Travnik were continuously educated under the Programme of Vocational Training and Specialisation of Police Officers on all themes from the Programme pertaining to everyday police work, as well on all changes in the police work (the Law on the Elements of Road Traffic Safety, the Law on Offences, etc).

As regards the 2008 police officers education, the Unit for Education prepared the Programme of Vocational Training and Specialisation of Police Officers in 2008, which includes all police action themes. Particular focus in the Programme of Training is given to police community work and domestic violence. Moreover, having regular contacts with the Federation Ministry of Interior, employees of this Ministry are engaged in the realisation and carrying out of specialised courses, organised by the Federation Ministry of Interior in cooperation with the Ministry of Justice and other local and international organisations dealing with education and advanced training of Federation B-H police structures.

As regards deposition taking and storage of confiscated items, we received the following information:

Due to the lack of space, organisational units within the Central Bosnia Canton MoI in Travnik do not have special rooms for statement taking. Interviews are carried out in criminal police offices, i.e. in an office of an officer taking statement. There have been neither complaints by citizens that unauthorised items (bats, and similar) were noticed in statement taking rooms nor such items were noticed through internal controls. For the mentioned reasons there are no special rooms (deposits) for storage of seized objects within the organisational units of the Ministry of Interior in Travnik. In practice these objects are kept in the police premises until they are handed over to prosecutor's office, court or returned to the owner. Small-dimension items are stored in closed or steel lockers, while large-dimension items (vehicles, and similar) are kept in the grounds of police organisational units. It is not unusual that courts and prosecutor's offices, due to lack of their suitable deposits, commit seized objects to care of the police pending the completion of the procedure. This is particularly the case with large-dimension objects, so due to slowness in deciding on cases, in the grounds of some police stations there are tens of vehicles seized under various grounds (customs offences, criminal offences, etc), which makes their work and normal operation difficult.

The Tuzla Canton Ministry of Interior has informed us that comprehensive measures and actions have been taken to meet all suggestions and recommendations submitted by the CPT.

The Tuzla Canton Ministry of Interior, with the full support of the Tuzla Canton Government and the ICITP, in very short time succeeded in meeting almost all requirements of the CPT recommendations and comments.

In the course of 2007 the Tuzla Canton Ministry of Interior realised nine educational themes under the *Annual Plan and Programme of Permanent Training of Police Officers*, namely: application of legal police authorities, application of the State and Federation Criminal Code and the Criminal Procedure Code, ethical codex, police community work, and similar.

The education was attended by 1,170 police officers of this Ministry, while continuation of educational activities is planned for 2008. The basic principle applied in education is to train police officers to protect in their everyday jobs and tasks human rights and freedoms of citizens guaranteed by international standards and instruments, as well that police activities are directed to legal evidence collection.

The Tuzla Canton Ministry of Interior, with the direct assistance of the ICITP, established a specialised room for storage and safekeeping of objects seized during criminal investigation or criminal offence commitment. All seized objects are handed down and kept under procedure applied in modern western countries, under suggestions issued by the ICITP, while authorised officials of the Ministry are specially educated for work in these rooms.

This Ministry delivered a clear message to all heads of organisational units, of Police Administration, commanders of police stations, and a commander of Support Unit of the Tuzla Canton MoI that the ill-treatment of detained persons is illegal, unprofessional, and will be the subject of severe sanctions. The Ministry also ordered all unauthorised items be removed from police interview rooms (various bats, hatchets, shovels, and other).

Moreover, all police officers have been ordered to treat detained persons in accordance with the law and professional ethics, to secure all rights to a detained person (the right to inform a close relative or a third party immediately upon deprivation of liberty, the right to a defence attorney in accordance with the law, the right to a doctor, and other rights stipulated by the law), so that each ill-treatment of detained persons will be prosecuted, and perpetrators severely punished.

The Ministry regularly monitors, through a police commissioner, implementation of these measures. Moreover, it is engaged in legal recruitment of police officers under strict selection criteria. In cooperation with the Federation MoI particular attention is paid to complementing skills and knowledge of police officers necessary for successful operation of the Ministry in all segments. Attention is also paid to renovation of a larger number of buildings in police stations and the Ministry, their equipping under European standards, for the purpose of an efficient work of the police and creation of preconditions for safe and prosperous life of all citizens.

The Bosnia-Podrinje Canton Ministry of Interior informed us that its police officers attended 47 various seminars in the course of 2007, particularly important being courses from the field of: deprivation of liberty and the use of means of restraint, the use of means of binding and reporting accordingly, and similar. Continuation of police officers education is planned in 2008.

There are no unauthorised items (replica pistols, metal piping, baseball bats, and similar) in police interview rooms, while seized items are stored in special strongboxes in the premises of Cantonal MoI in Goražde pending completion of criminal and misdemeanour proceedings.

Organisational units of the Police Administration have been informed by the police commissioner in a written and oral form that the ill-treatment of detained persons is illegal, unprofessional, and will be the subject of severe sanctions, that it is necessary to permanently educate all police officers on the theme "Treatment During Deprivation of Liberty", to secure the right of detained persons to inform a close relative or a third party, the right to a defence attorney, the right to a doctor (particular attention is paid to the fact that records on realisation of these rights must be duly filled), and that detention premises are regularly visited and maintained in accordance with the European standards.

The Sarajevo Canton Ministry of Interior has informed us that all necessary measures and activities have been taken to prevent and remove the shortages stated in the CPT's Report. A unique position has been stated via dispatch, i.e. an order has been issued clearly stating that the ill-treatment of detained persons is illegal, unprofessional, that it is a criminal act and severe violation of a working duty, and accordingly, all cases in which police officers of the Ministry demonstrate such conduct in their work will be immediately investigated and prosecuted, and subject to severe sanctions.

Order has been issued that right of a person deprived of liberty should be secured, namely the right to inform a close relative or a third party on his/her own choice on his/her deprivation of liberty, the right to a defence attorney and the right to a doctor.

Necessary activities have been undertaken to remove all unauthorised items from police interview and detention rooms (baseball bats, pistol replicas, metal piping with wrist straps, and similar items). These activities were presented in the Notice on Actions No. 09-34-9-247 from 16 May 2007, submitted to the Federation Police Administration to the Ministry for Human Rights and Refugees of B-H. No unauthorised items have been found during direct inspection of the official interview rooms.

Through realisation of regular annual training this Ministry processed themes pertaining to the protection of human rights and human dignity, directed in the first place to the prevention of any form of torture and inhuman or degrading treatment or punishment. The Programme of Regular Annual Training for 2008 adopted by the Police Academy with the Federation Ministry of Interior stipulates implementation of thematic whole dealing with the mentioned problems, and its realisation is underway.

The Zenica-Doboj Canton Ministry of Interior has informed us that this Ministry has acted under requests by the CTP.

We have been informed there have been no unauthorised items in police interview rooms, while property seized during criminal investigation have been dealt with in accordance with the Criminal Procedure Code of the Federation of B-H. Depending on the decision of the competent court, seized property has been used as evidence in criminal investigation and are either kept at court or prosecutor's office or are stored in depository of police station pending completion of the proceedings and final decision of the court.

Officials of the Ministry regularly attend all forms of training in order to complement their skills and knowledge, and to acquire new competences.

Under the Criminal Procedure Code of the Federation of B-H, all persons deprived of liberty are immediately informed on their rights, such as reasons for apprehension, to inform a close relative or a third person on their deprivation of liberty, the right to a defence attorney, the right to a doctor. Records are kept in all police stations on persons deprived of liberty on various grounds, including records on realisation of the mentioned rights.

The Canton 10 Ministry of Interior in Livno has informed us that unauthorised items are not kept in police rooms and interview rooms, while property temporarily seized during criminal investigations are either handed to a competent prosecutor's office or court, or are stored in the premises of police stations, police administration or MoI pending the court of prosecutor's office decision on further operation with property.

In the course of 2007 there were no complaints as to illegal and unprofessional treatment of persons deprived of liberty by police officers. The Minister of Interior and the police commissioner use each opportunity to stress illegality in police officers work, particularly in treatment of persons deprived of liberty. Immediate investigation will be ordered in any possible future case.

Recruitment of police officials is regulated by the *Law on Police Officials of Canton 10* and the *Rulebook on the Procedure and Programme of Testing and Education of Newly Recruited Police Officials*. In-service police officials' education is carried out regularly, in accordance with prepared education and training plans.

Rights of persons deprived of liberty are completely respected and protected, in accordance with provisions of the Criminal Procedure Code of the Federation of B-H (right to inform a close relative, right to a defence attorney, to a doctor, etc). Records are kept under the Instruction on Treatment of Persons Deprived of Liberty, while there is monitoring of record keeping.

Premises for placement of persons deprived of liberty have been arranged in the previous two years. The survey of premises has been carried out, and their further arrangement will be requested in all police stations and Police Administration.

The Posavina Canton Ministry of Interior has informed us that a *Programme of Education and Advanced Training for Police Officials* had been prepared at the beginning of 2007, stipulating various themes, including the police works and code of conduct. Such Programme has been prepared for 2008. Under these Programmes, all police officers are obliged to complete training and education under themes of the programme.

In organisational units of the Police Administration there is no specially arranged room for interviewing of persons on the ground of suspicion they may have committed crime or offence, but interviews are conducted in the offices of the officials.

There are no unauthorised items in these rooms, and property temporary seized as an evidence material are stored in special containers or iron boxes, depending on the type and purpose of items, as well whether they will be handed to competent court or prosecutor's office, accompanied by an official report. Conduct of police officers during interviews, handling of temporary seized property, and similar is carried out in accordance with the Criminal Procedure Code and other regulations regulating this matter.

The Herzegovina-Neretva Canton Ministry of Interior has informed us that in the course of 2007 the Department for Education organised education on the topic "Police Ethics" for middle managerial staff (commanders, deputies, assistants and leaders of shift). The following themes were processed: ethical code of conduct, human rights and police, international system of human rights protection, and human rights and responsibility of middle managerial staff. Education was organised in accordance with the Universal Declaration on Human Rights and the European Declaration on Human Rights, with particular focus on the prohibition of torture and ill-treatment, right to security of person, right to fair trial, which are police service related issues.

Moreover, all police structures of this Ministry have instructions on apprehension and duly treatment when holding persons, i.e. they are qualified for interviewing and statement taking. Lectures have been organised on problems of legal apprehension and the rights of persons deprived of liberty, interview-taking manners, etc.

Police officers who have contacts with apprehended and detained persons are educated to observe to right of a person deprived of liberty to a defence attorney, doctor, to inform a close relative.

In the course of 2007 courses on the topic *Police Work with Children and the Youth* were organised, and the same is stipulated for 2008. The topic in detail dealt with the *Convention on the Rights of the Child*, communication with children, juvenile judicial system in the light of international rules and standards. The education resulted in reduction of complaints on the work of the police, thus the *Department for Professional Standards, Internal Control, Revision and Inspection* has not pronounced any sanction for human rights violation by police officers.

Under the Police Administrations, in the course of 2007 there were neither apprehension by the police of persons who appear mentally agitated, nor their ill-treatment. Police officers come into contact with mentally incompetent persons while escorting them to health-care institutions, and there had been no such incidents recorded which would be assigned to intimidation or ill-treatment.

There are no unauthorised items in rooms for interviewing of persons on the ground of suspicion they may have committed crime or offence, while property temporary seized during criminal investigation are stored in a room specially intended for this purpose "depository".

Concrete steps have been undertaken as to improvement of conditions in cells in police stations of the Ministry, in accordance with financial capabilities of the Ministry. Certain shortages have been improved. However, there is a permanent obligation of this Ministry to improve the situation in the Mostar Police Unit - Mostar Centre Police Station as a matter of priority, i.e. to renovate a cell which is still in bad condition, almost unusable and used only as a last resort. As regards the mentioned, in the course of discussion on the 2008 Budget the Herzegovina-Neretva Canton Government gave a positive opinion on funds requested for this purpose by the Minister of Interior. Therefore, it could be expected that following adoption of the Budget, measures would be taken on improvement of conditions in these rooms.

The Federation Ministry of Interior, the Federation Police Administration, and Cantonal Ministries of Interior have permanent obligation through permanent education of police officers in 2008 and subsequent years to reduce the mentioned problems at minimum, and to meet requests of modern, professional and democratic police, given that human rights, political democracy, and the rule of law are common European values.

The Ministry of Interior of Republic Srpska

Following obligations from the CPT's Report, containing assessments and remarks during the visit to organisational units of the RS MoI, the following measures and actions have been taken as to remove the noticed negativities as regards treatment of persons deprived of liberty:

1. An excerpt from the Statement of the CPT's Delegation has been submitted to all organisational units of the Ministry of Interior of Republic Srpska as to inform them with recommendations and comments and to enable them to take activities on elimination of noticed problems. Particularly on this occasion:
 - 1.1. Attention has been called that all members of the Ministry of Interior of Republic Srpska in treatment of persons deprived of liberty, questioning the suspects and examination of witnesses have to act in accordance with the Law on Internal Affairs, the Criminal Procedure Code and the Criminal Code, and to respect their right in full, as set forth in international conventions on human rights and freedoms, as well in Article 5 of the Criminal Procedure Code, namely: that a person deprived of liberty shall, in his mother tongue or any other language that he understands, be immediately informed about the reasons for his apprehension and advised that he is not obliged to make a statement, on his right to a defence attorney of his own choice as well as on the fact that his family, or other person designated by him shall be informed about his deprivation of liberty. The Instruction on treatment of persons deprived of liberty stipulates an access to a doctor in case a person deprived of liberty requests medical assistance. Moreover, attention has been called several times to all members of the RS MoI that medical assistance should be provided immediately if requested by a person deprived of liberty.
 - 1.2. Attention has been paid to all police members and they have been warned that possible operation contrary to the law, as well as excessive and unnecessary use of means of force contrary to legal regulations would be subject of disciplinary and criminal liability of RS MoI staff.

- 1.3. Obligation has been stressed that during apprehension and detention provisions of Article 196 of the *Criminal Procedure Code* and the *Rulebook on the Manner of Treatment of Persons Deprived of Liberty* have to be strictly observed. Article 196 of the Criminal Procedure Code stipulates that police may deprive a person of liberty if there are grounds for suspicion that he committed a criminal offence and if there are any of the reasons as referred to in Article 189 of this Code, but they must immediately, but no later than 24 hours, bring that person before the prosecutor. In apprehending the person concerned, the police authority shall notify the prosecutor of the reasons for and time of the deprivation of liberty. The prosecutor is obliged to question the apprehended person without delay, and no later than 24 hours. The prosecutor shall decide within that time whether he will release the apprehended person or file the request for custody of the person in question to the preliminary proceedings judge. The preliminary proceedings judge shall immediately, and no later than 24 hours, issue a decision on custody or on releasing of the apprehended person.
 - 1.4. It has been ordered that in the forthcoming period particular attention should be paid to education of police officers in prevention of torture, inhuman and degrading treatment or punishment, and that certain additional training and courses be organised both to upgrade their knowledge and to provide them with new competencies from this field. All members of the RS MoI work on this area through advanced training and qualifications, as stipulated by the Plan and Programme of Advanced Training and Qualifications for 2008.
 - 1.5. It has been ordered that in the forthcoming period obligatory records are kept and obligatory documents filled. Legality of police stations` work is monitored through the mentioned; they are regularly revised and monitored by monitoring services and inspections of inspectors from Public Security Centres and the Ministry of Interior.
 - 1.6. All organisational units of the MoI have been ordered to regularly and duly maintain holding facilities, and that they have satisfactorily level of hygiene.
2. The MoI services competent for monitoring the legality of work of organisational units within the RS MoI have been ordered to pay in performing their regular and extraordinary inspections particular attention to control of legality of treatment of persons deprived of liberty. Moreover, where violation of regulations are noted, sanction measures are taken as stipulated by the law, in order to reduce instances of torture, inhuman and degrading treatment or punishment within the MoI to minimum, with a tendency to eliminate them completely.
3. Training for work in the RS MoI is organised at the Internal Affairs College and the Police Academy, organised within the Police Education Administration. The Administration's Curricula give significance to the prevention of torture, inhuman and degrading treatment or punishment. Priority is given to professional training of police officials, emphasising interpersonal communication be one of the main factors in recruitment of police officers. For the purpose of determining health conditions for work and education in the RS MoI, an expert team has been established, working on the team treatment principle, composed of specialist doctors, namely of a industrial medicine, a psychiatrist, an ophthalmologist, an otorhinolaryngologist, a gynaecologist, an internist, an orthopaedist, a physiatrist, and a graduate psychologist. All newly recruited members of the RS MoI have to be examined by this Team, while all employees have periodical medical checkups.
4. As ordered in the Report, police holding facilities in Višegrad and Foča have been reconstructed under standards for holding facilities. Police Administration inspectors have checked facilities in these police stations, and stated in the Report that holding facilities are suitable and meet prescribed standards, and ordered to put them into function.

5. Information on the current legal provisions and measures as regards apprehension of persons with mental disorders.

The Criminal Procedure Code was adopted by the National Assembly of Republic Srpska at its session held on 28 May 2003, and entered into force on 1 July 2003.

Article 5 of the Law stipulates that a person deprived of liberty shall, in his mother tongue or any other language that he understands, be immediately informed about the reasons for his apprehension and advised that he is not obliged to make a statement, on his right to a defence attorney of his own choice as well as on the fact that his family, or other person designated by him shall be informed about his deprivation of liberty.

Articles 188 to 196 deal with pre-trial detention, ordering pre-trial custody, grounds for pre-trial custody, competence for ordering custody, duration of investigative custody, termination of custody, custody after the confirmation of the indictment, ordering custody after the verdict is pronounced, deprivation of liberty and police detention.

Article 196 stipulates that the police may deprive a person of liberty if there are grounds for suspicion that he committed criminal offences and if there are any of the reasons as referred to in Article 189 of this Code, but they must immediately, but no later than 24 hours, bring that person before the prosecutor. In apprehending the person concerned, the police authority shall notify the prosecutor of the reasons for and time of the deprivation of liberty. Use of reasonable force is allowed when apprehending the person. The prosecutor is obliged to question the apprehended person without delay, and no later than 24 hours. The prosecutor shall decide within that time whether he will release the apprehended person or file the request for custody of the person in question to the preliminary proceedings judge. The preliminary proceedings judge shall immediately, and no later than 24 hours, issue a decision on custody or on releasing of the apprehended person.

The Instruction on Treatment of Persons Deprived of Liberty was adopted by the Minister of Interior and entered into force as of signing on 19 September 2001.

Article 17 of the Instruction stipulates that a person deprived of liberty with known history of mental disorder or illness, or who appear mentally agitated will be deprived of liberty by the moment of transfer to adequate medical institution. Such person shall be provided protection and permanent supervision until placed in adequate institution, while these data are registered in the Records on Deprivation of Liberty.

1. Information on measures taken in Police Station Pale

The Internal Control Inspectorate has received an excerpt from the CPT's information as regards knowledge of treatment of persons deprived of liberty by police officers in Pale Police Station. The Internal Control Inspectorate has found that in that period two persons, namely SH and DK, have been delivered to the prosecutor with injuries which have not been the result of police torture, and which have been documented in accompanying documentation of the Report. It is obvious from the delivery certificate of a person deprived of liberty No: 13-1/2-17/07 from 28 March 2007 in the name of DK that at the moment of deprivation of liberty he had bruise in the area of left eye. The person concerned stated he got wounded in a fight on 23 March 2007. The person concerned is a drug addict and a multiple offender.

SH has been deprived of liberty by police in Rogatica after several armed robberies at Pale, after which he was taken to Police Station Pale. Given his abstinence crisis he was rendered medical aid (narcotic medicaments) in Health Centre Pale, recorded in medical documentation. The person concerned suffers from Hepatitis C. Following his treatment, along with delivery certificate of a person deprived of liberty No: 13-01/3-2-11/06 from 13 October 2006, a person was delivered to the Basic Prosecutor's Office in Sarajevo East without injuries. After that the Court Police delivered him to authorised official persons in Correctional Institution Kula, without any injuries found. As regards the patients in Sokolac Psychiatric Hospital, we emphasise that the Hospital has its own police securing the Hospital and patients, while members of the MoI has no authority in this area.

2. Confirmation that all unauthorised items have been removed from police rooms

It was particularly emphasised that items (sticks, electric conductors, firearms, knives) which may be connected with torture, degrading or inhumane treatment might not be in working and other premises in which criminal processing of persons deprived of liberty is carried out. Inspectors of Public Security Centres and the RS MoI carry out controls and inspections of such premises with a view of detection of such items.

The Ministry of Health and Social Welfare of Republic Srpska

The Report on the situation and measures taken at Sokolac Psychiatric Hospital – Sarajevo East Clinical Centre

1. At the moment there are 25 patients at the Forensic Psychiatry Closed Ward, while there are 57 patients at Forensic Rehabilitation Ward. In the previous two months a number of patients at Closed Forensic Ward was reduced by 10 patients.
2. In the mentioned Wards, broken windows have been replaced, locks on windows and doors have been repaired, a door on one toilet has been replaced, complete bedclothes, a couple of pillows, blankets and mattresses have been replaced at the Closed Forensic Ward. Dormitories have been whitewashed.
3. Given the lack of space at Closed Forensic Ward, patients have been provided with three larger lockable closets for keeping personal belongings, and plastic hangers for clothes.
4. Most patients at Forensic Rehabilitation Ward have lockable closets in which they can keep their belongings.
5. Walking area for Closed Forensic Ward patients has been neither widened nor covered.
6. Admission outpatients department has been relocated for the purpose of spatial capacities widening. In this way more comfortable daily placement of patients has been provided, while adequate protection has been placed on doors and windows. Moreover, conditions have been secured for easier hygiene maintenance and airing out dormitories.

7. Given that conditions have been acquired for improved day rooms for patients, we equipped it under our capabilities, and plan adequate decoration; moreover, daily activities contents have been broadened:

- Psychosocial rehabilitation, individual and group work are organised two times a week, and patients joined programmes on the prevention of re-offending for patients;
- Apart from the mentioned activities, the following activities are carried out at Forensic Rehabilitation Ward: bibliotherapy, music therapy, art therapy, working-occupational therapy, and sport activities.

8. On 19 November 2007 conservation of hospital refectory was carried out, funds were provided for reconstruction and rehabilitation of hospital refectory, tender for execution of works was published. Moreover, on 8 February 2008 the Director General Dr. Milan Pejić concluded a contract on execution of works on reconstruction and rehabilitation of hospital refectory at Sokolac Psychiatric Hospital with Enterprise Ltd Zmaj from Sokolac, represented by director Davor Divljanović. Preparatory works are underway.

At the moment meals are served in the premises of ex "public feeding restaurant" in the administration building, in shifts and obligatory presence of medical staff, recorded in the reporting book.

9. Staffing level has been improved at Forensic Acute and Rehabilitation Wards, from two neuropsychiatrists to four doctors (one specialist and one inter). A medical technician was temporary engaged at Male Acute Ward.

10. At Forensic Psychiatry Ward and Acute Male Psychiatry there are teams for observation and monitoring of state of patients` health (a psychiatrist - head of Ward, a psychiatrist, a psychologist, and a social worker).

11. Caring for and restraint of violent or agitated patients are carried out through application of medicaments and "wrist strap", which is recorded.

12. Admission at Male Acute Ward is carried out in accordance with the current legal norms. Procedures have been established for voluntary and involuntary placement of patients at the Clinic.

13. Brochures setting out the establishment's routine and patients` rights still have not been provided to patients and their families. So far doctors gave instructions and explanations of legal rights orally.

14. Medical staff has been given instructions for firmer control and supervision of patients in medicaments taking. There are sufficient quantities of medicaments in hospital pharmacy, and there are distributed regularly.

15. Underway are negotiations with work contractors for installation of video-surveillance, to be installed at Acute Ward as a matter of priority.

16. Underway is procedure for announcement of competition to fill the position of four psychiatrists, since no candidates entered a previous competition. Moreover, underway is review of job occupancy and elaboration of new systematisation of posts in Psychiatric Hospital.

17. Since May 2007 ten patients suffering from lung tuberculosis were detected and registered (three patients from Closed Acute Forensic Ward, and seven patients from Rehabilitation Ward). Treatment was completed in three patients, two patients are in the extended outpatient treatment, four patients are still on hospital treatment, while one patient died from the consequences of illness.

18. Dispensary treatment of patients is carried out in Sarajevo East Clinical Centre at Kasindo (Lung Diseases Ward), while extended treatment is carried out at Sokolac Psychiatric Hospital. These patients are cared for under legal and doctrinal procedure, while preventive measures have been taken towards detection of tuberculosis in all patients and staff, with obligation of further monitoring.

Situation and measures taken in the Višegrad Institution for the Protection of Female Children and Youth

1. The legal framework for work of social protection institutions is set forth in the *Law on Social Protection of Republic Srpska* (Official Gazette of RS, Nos: 15/96, 5/03 and 110/03), the *Law on the Protection of the Child* (Official Gazette of RS, Nos. 15/90 and 4/02), the *Law on the Protection of Persons with Mental Disorders* (Official Gazette of RS, No. 46/04) and bylaws. It is planned that a new RS Law on Social Protection be forwarded into parliamentary procedure in the first half of the year. The new Law stipulates elaboration of several rulebooks and various strategies for improvement of conditions of beneficiaries cared for in social protection institutions.

2. With a view of reduction of inter-resident violence, the Institution expanded useful area through rehabilitation of two old pavilions, and separated children from adults. Underway is rehabilitation of premises for the purpose of adequate individual and group work with residents in a sense of educational work and working-occupational therapy. A social worker, a graduate lawyer, a nurse, a caregiver, and a food server have been recruited.

3. The Institution has improved material conditions of residents in a sense of dressing, accommodation and food. Moreover, there is possibility that occupationally engaged residents be paid, which at the same time means improvement in dressing and food.

4. The development plan of the Institution stipulates in this year purchase of adequate didactic aids towards modernisation of living space of residents, as well programmes of leisure activities in all fields of life.

5. Database for all residents has been prepared, which enables more adequate planning of development programmes in all areas of life of resident of the Institution.

6. The RS Ministry for Health and Social Protection has carried out expert supervision in the Višegrad Institution, and defined certain measures the Institution has to comply with and report on undertaken activities by the 5th of each month.

7. Underway are plans for education of staff through various activities, as well as supervision of staff in a sense of prevention of exhaustion of persons working with extremely severe residents.

8. In the course of the year the Institution will prepare the rulebook regulating the use of means of restraint (rulebooks from Serbia are used for the time being).

9. The Institution will draw up a Protocol dealing with unexpected deaths of residents, and stipulate that all unexpected deaths are subject to autopsy.

10. The new Law on Social Protection stipulates regulating and establishment of procedures between residents, their guardians and centres for social protection in a sense of more adequate caring, placement, informing, information and reviews, while portfolio Ministry is included into monitoring.

The Ministry for Labour and Social Policy of the Federation of B-H

Social care homes

As regards the need to clarify practical ramifications of the Parliament of Bosnia-Herzegovina becoming the founder of the social care homes in the Federation of B-H, we inform you on the following:

The Government of the Federation B-H is of the opinion that legal status of the Institution could be solved only by adoption of the *Law on Takeover of Rights and Duties of Founders of Social Care Establishments in the Federation of B-H*, or by a Decision of the Parliament of the Federation of B-H as to offering, namely renouncing rights and duties to other legal or physical entities.

A draft law was adopted by both Houses of the Parliament of the Federation of B-H, but in differently adopted texts. Due to the mentioned, in accordance with Standing Orders of the Parliament, followed harmonisation of differently adopted texts of the law.

The House of Representatives of the Parliament of the FB-H, in the resumption of the 7th session, held on 17 December 2007, did not adopt a proposal on solving questions at issue by the *Joint Commission for Harmonisation of Differently Adopted Texts of Draft Laws* in the Proposal of the Law on Takeover of Rights and Duties of Founders of Social Care Establishments in the Federation of B-H. This means that the HoR has not given up three amendments adopted in the resumption of 4th session, held on 5 September 2007, not adopted by the Government of the FB-H.

Upon proposal by the House of Representatives of the Parliament of the FB-H, and in accordance with provisions of Article 202 of the Standing Orders of the House of Representatives, further activities have been continued on determination of proposal acceptable to both Houses of the Parliament of the Federation of B-H.

As regards the request for information on concrete activities undertaken for the improvement and enhancing care in the community, we inform you that the Ministry for Labour and Social Policy of the Federation of B-H, pending final solution of the legal status of the Institution important for the Federation B-H, and within authority under supervision over implementation of the *Law on Elements of Social Protection, Protection of Civil Victims of War and Protection of Families with Children* (FB-H Official Gazette, Nos. 36/99, 54/04 and 39/06) and supervision over professional work of social care establishments important for the Federation B-H, performs all needed actions necessary for their undisturbed work in the best interest of residents (Article 9 of the Law).

As regards the comments on the development of a national plan for mental health, we are of the opinion that the Federation Ministry of Health should be included into its development. Concerning development of legislation on mental health in B-H in accordance with the recommendation of the Office of the Council of Europe, the Ministry for Labour and Social Policy of the Federation of B-H has proposed the following:

- To enable implementation of Article 410 of the Criminal Procedure Code of the FB-H (FB-H Official Gazette, Nos. 35/03, 37/03, 56/03, 78/04, 28/05 and 55/06) stipulating that perpetrators of criminal offences in the state of mental incompetence are referred bodies responsible for social care for the purpose of commencing the appropriate procedure for their placement and treatment. The problem is there is no institution for caring for mentally incompetent perpetrators of criminal offences, while the current social-mental establishments and psychiatric establishments do not have capabilities for placement and treatment of such persons together with other residents and patients.
- To qualify social care services both with increasing the staffing level and in technical part, as to prepare them to functionally accept duties stemming from Article 410 of the Criminal Procedure Code of the FB-H.
- To regulate the procedure for caring for persons who committed criminal offences in the state of mental incompetence, which is under competence of guardianship authority in accordance with Article 410 para 1 of the Criminal Procedure Code of the FB-H.
- To enable placement and treatment of persons who have not committed criminal offences in the state of mental incompetence, they have to be placed in an appropriate institution due to their mental illness or possible risk for themselves or other persons.

In fact, the Federation Ministry of Justice as the proposer of the Criminal Procedure Code of the Federation of B-H, while developing and proposing Article 410 of the CPC has not taken into account whether there is an establishment for caring for mentally incompetent perpetrators of criminal offences. Moreover, the Law neither stipulates the procedure for caring for persons who committed criminal offence in the state of mental incompetence, which is under competence of guardianship authority, nor determines obligation to regulate this procedure by another law or bylaw.

Moreover, it has not been taken in consideration whether social care services are functionally qualified to accept duties stemming from Article 410 of the Criminal Procedure Code of the Federation of B-H, which makes Article 410 unimplementable unless the mentioned issues are resolved.

The Office of the Ombudsman of Republic Srpska

In the course of 2007 the Office of the Ombudsman of Republic Srpska received 126 complaints of convicted persons, which is 37 complaints more in relation to 2006. Activities initiated by the Ombudsman in 2005 for the purpose of creation of conditions enabling persons serving imprisonment sentences to lodge complaints without mediation of prison management and without fear of possible discrimination were expressed fully in 2007, which is confirmed by number of complaints. Majority of complaints lodged to the Ombudsman of RS were received in direct contacts with convinced persons, namely:

- Banja Luka Correctional Institution– 57 complaints
- Foča Correctional Institution– 44 complaints
- Doboj District Prison– 11 complaints
- Bijeljina District Prison– 14 complaints.

We received no complaints from Sarajevo East District Prison and Sokolac Psychiatric Hospital. Complaints mainly applied to placement, food and dressing, correspondence, receiving visits and parcels, treatment, detention determination, termination of imprisonment, transfer to other institution, and the possibility for foreigners to serve sentence in their own countries.

Managements have regularly been informed on all problems raised by the persons concerned. They have expressed their readiness, and showed this in practice, to support the RS Ombudsman's activities on solving the reasons behind complaints. Terms of visit by the Ombudsman have been determined in all institutions; however, visits have been carried out as necessary and upon calls by persons accommodated in institutions.

We state several examples when the RS Ombudsman assisted by his activities in solving of convicted persons` complaints.

A convicted person A.M. turned to the RS Ombudsman on 27 November 2007 to urge the Banja Luka Correctional Institution to enable a pacemaker building. After that the Correctional Institution informed the Ombudsman that the pacemaker had been purchased, and that its building was expected.

A convicted person M.M turned to the RS Ombudsman on 15 November 2007 to urge the Banja Luka Correctional Institution to furnish him a Decision on Conviction No. XVI P-556/92. Following our mediation, the Decision was furnished to the appellatant.

The RS Ombudsman supports the initiative that training and education of the staff in all institutions is strengthened, since correct relation of staff towards convicted persons contributes to avoidance of reasons for their complaints.

Accused or convinced persons are deprived of liberty; however, they have certain rights in such status which have to be secured.

Moreover, in our opinion, all institutions should work additionally to inform these persons when admitting them with rights or regulations regulating their treatment, housing rules, conduct and discipline in the institution, request and access to information, and all other issues required for correct understanding of the rights and duties of these persons, all this towards their regular adaptation to the life in the institution.

On the occasion of riot of convicted person in Doboj District Prison, which took place in May 2006, the RS Ombudsman prepared a Special Report on Treatment of Convicted Persons` Complaints in Doboj District Prison No. 456/06 from 18 July 2006, and furnished it to the RS Ministry of Justice and Doboj District Prison. In the case of riot on 28 March 2007 the RS Ombudsman visited the Doboj District Prison and had a conversation with the Director of the Prison on causes and consequences of riot.

Particular attention, in our opinion, has to be secured to juveniles.

The RS Ombudsman welcomes the commencement of work of Juvenile Correctional Ward in Banja Luka. We consider the establishment and commencement of work of Juvenile Correctional Ward in Banja Luka has had beneficial influence on juvenile offenders` rehabilitation.

So far we have had no complaints from this Ward; however, we visit it, have conversations with juveniles and with its managerial staff. We mention that the Ward has been placed near Banja Luka Correctional Institution; however, all measures have been taken to prevent contacts of the Ward residents with convicted persons of the Correctional Institution.

Working engagement possibility enables residents to re-socialise and to acquire certain skills during their stay in the Ward. This enables them to engage themselves in the community after leaving the institution in an easier way.

The Office of the Ombudsman of RS received no complaints in the course of previous year from the Forensic Ward within the Sokolac Psychiatric Clinic.

A visit to the Sokolac Psychiatric Clinic and conversation with the Director on problems encountered is scheduled for the next week.

At the end of the Report, we could state that this field requires necessary reforms and creation of optimal conditions for sentence serving by convicted persons, introduction of European standards into these institutions. However, in order to realise the mentioned, it is necessary to make moves in material and organisational field, to enable these persons to realise rights entitled to them, and to standardise conditions in all institutions in Republic Srpska.

BOSNA I HERCEGOVINA

Ministarstvo za ljudska prava i izbjeglice

Sektor za ljudska prava

BOSNA I HERCEGOVINA

Ministry for Human Rights and Refugees

Department for Human Rights

**C. Report by the authorities of Bosnia-Herzegovina
under comments and inquiries of the
European Committee for the Prevention of Torture
and Inhuman or Degrading Treatment or Punishment –
periodical visit of CPT paid to Bosnia-Herzegovina in the course of 2007**

Referring to competencies of the Ministry for Human Rights and Refugees of Bosnia-Herzegovina and obligations of the liaison officer of the authorities of Bosnia-Herzegovina with the CPT, and following comments and inquiries by the *European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment*, we hereby submit responses by competent Ministries of Bosnia-Herzegovina, the Federation of Bosnia-Herzegovina and Republika Srpska. Responses are presented in the order the CPT put up questions, or commented parts of the Report by the authorities of Bosnia-Herzegovina.

With regard to obligations of the Ministries of Interior of Republika Srpska, the Federation of Bosnia-Herzegovina and Cantons within the Federation of B-H, enclosed are the *Instruction on Treatment of Persons Deprived of Liberty* of Republika Srpska from 19 September 2001 (submitted by Police Administration of the Ministry of Interior of Republika Srpska) and the *Instruction on Treatment Persons Deprived of Liberty*, No. 09-14-04-7-199 from 2 March 2006 (submitted by Police Administration of the Ministry of Interior of the Federation of Bosnia-Herzegovina).

Moreover, the present Report contains responses to CPT's questions by institutions of Bosnia-Herzegovina, Republika Srpska, the Federation of Bosnia-Herzegovina, as follows:

- the Ministry of Justice of Bosnia-Herzegovina,
- the Ministry of Justice of Republika Srpska,
- the Ministry of Justice of the Federation of Bosnia-Herzegovina,
- the Ministry of Labour and Social Welfare of the Federation of Bosnia-Herzegovina,
- the Ministry of Health and Social Protection of Republika Srpska.

The Ministry of Justice of Bosnia-Herzegovina

With regard to the Comment by the CPT from 16 September 2008 on the response by the authorities of Bosnia-Herzegovina, adopted at the session of the Council of Ministers of B-H held on 27 March 2008 and request of additional response on raised questions from the competence of the Ministry of Justice of Bosnia-Herzegovina, we hereby submit the following answer:

1. With regard to Item 7 para 2 of the CPT's comment, we inform you that preparation of the *Strategy on Supervision over Drugs, Prevention and Combating Drugs Abuse in Bosnia-Herzegovina*, is under competence of the Ministry of Security of Bosnia-Herzegovina, namely the Commission for Combating Drugs Abuse, established by the Decision of the Council of Ministers of B-H from 28 June 2007, published in the Official Gazette of B-H, No. 73/07 from 1 October 2007.

Within the mentioned Commission, the Council of Ministers of B-H, at its session held on 24 April 2008, passed the Decision on the establishment of the Working Group tasked with preparation of the State Strategy on Supervision over Drugs, Prevention and Combating Drugs Abuse in Bosnia-Herzegovina (published in the Official Gazette of B-H No. 52/08 from 30 June 2008). The Working Group is composed of 17 representatives from the level of the State Bosnia-Herzegovina, the Federation of Bosnia-Herzegovina, Republika Srpska and District Brčko of Bosnia-Herzegovina.

In the meantime, the Council of Ministers of B-H passed the *Amendment to the Decision on Appointment of the Members of the Commission* from 8 May 2008 (published in the Official Gazette of B-H No. 54/08 from 7 July 2008). The Amendment added as the members of the Commission Deputy Ministers of Finance and Treasury of Bosnia-Herzegovina, Deputy Minister of Trade and Economic Relations of Bosnia-Herzegovina, Deputy Minister of Justice of Bosnia-Herzegovina, and Deputy Minister of Security of Bosnia-Herzegovina.

With regard to operations of the established Working Group, we suggest you to address the coordinator of the Working Group, Mr. Milan Škipina from the Ministry of Security of Bosnia-Herzegovina.

2. With regard to Item 12 relating to communication of new information on the progress achieved with the establishment of a single forensic psychiatric institution, we inform you on the following:

Following Conclusion No. 05-07-1174-9/07 from 1 October 2007 passed by the Council of Ministers of Bosnia-Herzegovina (you were informed about in the response by the Council of Ministers of B-H from 27 March 2008), this Ministry requested on 8 April 2008 a feedback from the Chair of the Council of Ministers of B-H on implementation of Conclusion passed on 1 October 2007. After that, the Ministry of Justice of B-H communicated to the Council of Ministers of B-H information concerning rehabilitation of the facility for the needs of execution of obligatory psychiatric treatment measures pronounced in criminal proceedings, providing proposals of conclusions with compromise commitments aimed at resolution of problem with placement of forensic prisoners.

Information of the Ministry of Justice of B-H from 15 May 2008 was adopted by the Council of Ministers of Bosnia-Herzegovina at its 52nd session held on 12 June 2008. The following conclusions were adopted:

- that donation from the Swiss Confederation will be implemented through the Ministry of Finance and Treasury of Bosnia-Herzegovina and Psychiatric Clinic “Podromanija” at Sokolac;
- the contract will be concluded between the Ministry of Finance and Treasury of Bosnia-Herzegovina and Psychiatric Clinic “Podromanija” at Sokolac, conditional upon fulfilment of these requirements:
 - a) that Sokolac Municipality transfers ownership free of charge over specific-purpose constructed building of forensic psychiatry to Psychiatric Clinic “Podromanija” at Sokolac;
 - b) that the Entity Governments and Psychiatric Clinic “Podromanija” at Sokolac conclude the contract on conditions of placement of prisoners with pronounced measure of psychiatric treatment from the entire territory of Bosnia-Herzegovina;
 - c) that the Government of Republika Srpska offer guarantees for completion of the overall investment and outfitting of specific-purpose constructed building for forensic patients.

In the meantime, from the date of entrance into force of Conclusions adopted by the Council of Ministers to 12 June 2008, the Government of Republika Srpska, at its session held on 10 July 2008 passed the *Decision on Establishment of Special Forensic Psychiatry Hospital at Sokolac*. Item 1 of the Decision, *inter alia*, states: “Government of Republika Srpska (hereinafter referred to as: the Founder) establishes Public Institution Special Forensic Psychiatry Hospital at Sokolac”.

Moreover, the Government of the Federation of B-H, at its 67th session held on 27 August 2008, considered information and conclusions by the Council of Ministers of B-H from 13 June 2008, and adopted the following conclusions:

- 1) the Government adopts Information by the Council of Ministers of B-H from 13 June 2008;
- 2) the need is expressed by the Council of Ministers of B-H as regards urgent technical work on implementation of the Project, with conclusion of an agreement containing:
 - guarantees for taking care of perpetrators from the entire territory of Bosnia-Herzegovina (State, Entities and District Brčko);
 - absence of any ground for discrimination in operation of such institution (standardised admission criteria);
 - need for semi-annual report by the Federation B-H Ministries of Justice, Labour and Social Welfare and Health on operation of the Institution, as well as the need for expert supervision by the Government of the Federation of B-H;
 - establishment of business Commission for implementation of the Agreement, composed of representatives of the Council of Ministers of B-H, the Federation of B-H, Republika Srpska and District Brčko B-H..

With regard to the mentioned, the Ministry of Justice of Bosnia-Herzegovina will request information by the Government of Republika Srpska, Sokolac Municipality, and the Ministry of Finance and Treasury of B-H on current activities on implementation of Conclusions by the Council of Ministers of B-H from 13 June 2008.

3. With regard to additional and realised activities by the Ministry of Justice of B-H, we inform you that this Ministry prepared the *Law on the Establishment of the Institution for Execution of Criminal Sanctions, Detention and Other Measures of Bosnia-Herzegovina*. The Law was adopted by the Parliamentary Assembly of Bosnia-Herzegovina and published in the Official Gazette of B-H, No. 24/08 from 24 March 2008. The said Law represents an additional legal basis for further activities on construction of the State Prison and implementation of projected measures on provision of necessary funds, preparation of final project documentation, announcement of tender, and particularly establishment of Management Committee and Supervisory Committee of the Institution under construction.
4. The Ministry of Justice of B-H adopted the *Instruction on Principles Regarding Ethical Treatment by Physicians of Persons Deprived of Liberty – Hunger Strikers*. The Instruction was published in the Official Gazette of B-H, No. 28/08 from 7 April 2008, and became effective as of 15 April 2008. The Instruction reflects the principles of the 1991 World Medical Association Declaration on Hunger Strikers (Malta Declaration) regarding ethical treatment of persons deprived of liberty – hunger strikers, edited in 1992 and endorsed at the General Assembly of the World Medical Association in 2006. It also reflects the principles of the Recommendation R(98) 7 of the Committee of Ministers of member states as regards ethical and organisational aspects of health care in prisons of the Council of Europe's member states . It provides definition of hunger strike, obligations of physicians, medical staff and other staff of the Institution, orders monitoring and consideration of international standards and regulations or skills of treatment in health care or other kind of protection of persons deprived of liberty.

The Ministry of Justice of Republika Srpska

The Report by the Ministry of Justice of Republika Srpska No. 08.030/051-713/08 from 13 February 2008 on measures taken on implementation of recommendations, comments and requests for information by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), which carried out its 2nd periodic monitoring to B-H from 19 to 30 March 2007 and visited some prisons in Republika Srpska, was positively accepted by the CPT.

This could be seen from its latest comments and requests for new responses on certain questions.

The Ministry of Justice of Republika Srpska provides the following responses to new requests by the CPT:

1. Juvenile prison in the area of East Sarajevo Correctional Institution commenced its work. At the moment three (3) persons are serving juvenile prison sentence.
Enclosed to the Report is Weekly Programme of Work of juvenile prison.
2. Latest updated information on progress of situation in Doboj District Prison are:
 - Significant staffing has been carried out, 75 or 95% of 81 jobs under job plan have been filled (as compared to 67 jobs during your visit);
 - With a view of improvement of the overall organisation of prison work functioning, 1 Rulebook, 18 Instructions and 3 Plans were amended or passed again. Moreover, all Rulebooks and Instructions in force were amended with a view of harmonisation with *Amendments to the Law on Execution of Criminal Sanctions of Republika Srpska* and Rulebooks adopted by the Ministry of Justice;
 - With a view of improvement of conditions for life, stay and leisure activities in prisons for persons deprived of liberty, new premises and contents for their certain activities were constructed, system of physical and technical protection was improved; all this was reported in the previous Report by the Ministry of Justice of Republika Srpska;
 - The Economic Development Fund of Republika Srpska accepted the proposal on "*Reconstruction, Rehabilitation, and Building of Additional Story of Doboj District Prison*". Funds in the amount of BAM 933,600 were appropriated for the said activities. The funds are already operative; underway are activities on testing of constructive structure of the current prison building and preparation of the main project. Completion of the project is expected by the end of 2009;
 - Implementation of this Project will increase prison accommodation capacities for 68 persons deprived of liberty (16 in detention and 52 in prison ward). Hence, in future they can accommodate 188, instead of previous 120 convicted and detained persons;
 - implementation of the mentioned Project would enable space for:

- a) 2 new solitary cells;
 - b) Reception and release ward for 8 persons;
 - c) Ward for Classification Group “C” for 10 persons;
 - d) Ward with reinforced supervision for 8 persons;
 - e) Premises for religious needs for all three religions;
 - f) 1 padded cell;
 - g) 1 room for free spouse visits;
 - h) 2 premises for pedagogue for Group “C” and for Groups “A” and “B”;
 - i) 2 premises for manufacture workshops (45 sqm);
 - j) 1 dentist’s office;
 - k) Separate in-patient clinic for 5 persons;
 - l) 4 offices;
 - m) Widening of a room for conferences and dining for 10 sqm;
 - n) Additional walking space (80 sqm);
 - o) 1 dressing room for occupational engagement of convicted persons;
 - p) 1 canteen;
 - q) 1 separate search room;
 - r) Other serviceable space (halls, closets, and similar), around 150 sqm.
- o Thorough reconstruction would be done, through which the building would look newer, infrastructure would be refreshed, outside arrangement would be done (mortar, façade and roof), which would reduce needs for funds for day-to-day maintenance;
 - o Concrete protection on all windows would be replaced by modern materials which would enable sufficient flow of natural light in all premises, enabling at the same time visual contact with outer world;
 - o In general, conditions would be improved for execution of imprisonment sentences and detention measures, as well as conditions for work of prison staff.
3. As regards regime in Republika Srpska prisons, namely two hours of outdoor exercise – walk in the fresh air of persons deprived of liberty, it is thoroughly implemented, which we reported in the previous Report.

In the end, we emphasise that the RS Minister of Justice has established the *Commission for Preparation of the new RS Law on Execution of Criminal Sanctions and Other Measures*. The Commission has already prepared a draft working version, and its adoption is expected by the end of 2009.

**WEEKLY PROGRAMME OF WORK OF JUVENILE PRISON
WITH THE EAST SARAJEVO CORRECTIONAL INSTITUTION**

Monday:

7:00	Getting up
7:00-7:30	Making beds and personal hygiene
7:30-8:00	Morning inspection and morning report
8:00-8:30	Breakfast
8:30-9:30	Walk
9:30-11:00	Occupational activity
11:00-11:30	Midmorning snack
11:30-12:15	English language course
12:30-13:30	Educational workshops
13:45-14:15	Lunch
14:15-16:15	Sport and recreational activities
16:30-18:15	Teaching material processing
18:30-19:00	Supper
19:00-22:00	Leisure activities (watching TV, playing parlour games, etc)
22:00	Last post

Tuesday:

7:00	Getting up
7:00-7:30	Making beds and personal hygiene
7:30-8:00	Morning inspection and morning report
8:00-8:30	Breakfast
8:30-9:30	Walk
9:30-11:00	Occupational activity
11:00-11:30	Midmorning snack
11:30-12:15	Group therapy – psychological workshop
12:30-13:30	Occupational therapy
13:45-14:15	Lunch
14:15-16:15	Sport and recreational activities
16:30-18:15	Teaching material processing
18:30-19:00	Supper
19:00-22:00	Leisure activities (watching TV, playing parlour games, etc)
22:00	Last post

Wednesday:

7:00	Getting up
7:00-7:30	Making beds and personal hygiene
7:30-8:00	Morning inspection and morning report
8:00-8:30	Breakfast
8:30-9:30	Walk
9:30-11:00	Occupational activity
11:00-11:30	Midmorning snack
11:30-12:15	Occupational therapy (bibliography)
12:30-13:30	Educational workshops
13:45-14:15	Lunch
14:15-16:15	Sport and recreational activities
16:30-18:15	Teaching material processing
18:30-19:00	Supper
19:00-22:00	Leisure activities (watching TV, playing parlour games, etc)
22:00	Last post

Thursday:

7:00	Getting up
7:00-7:30	Making beds and personal hygiene
7:30-8:00	Morning inspection and morning report
8:00-8:30	Breakfast
8:30-9:30	Walk
9:30-11:00	Occupational activity
11:00-11:30	Midmorning snack
11:30-12:15	English language course
12:30-13:30	Occupational therapy (art therapy)
13:45-14:15	Lunch
14:15-16:15	Sport and recreational activities
16:30-18:15	Teaching material processing
18:30-19:00	Supper
19:00-22:00	Leisure activities (watching TV, playing parlour games, etc)
22:00	Last post

Friday:

7:00	Getting up
7:00-7:30	Making beds and personal hygiene
7:30-8:00	Morning inspection and morning report
8:00-8:30	Breakfast
8:30-9:30	Walk
9:30-11:00	Occupational activity
11:00-11:30	Midmorning snack
11:30-12:15	Group therapy – psychological workshop
12:30-13:30	Team meeting of members of reform services and convicted persons
13:45-14:15	Lunch
14:15-16:15	Sport and recreational activities

16:30-18:15	Teaching material processing
18:30-19:00	Supper
19:00-22:00	Leisure activities (watching TV, playing parlour games, etc)
22:00	Last post

Saturday:

7:00	Getting up
7:00-7:30	Making beds and personal hygiene
7:30-8:00	Morning inspection and morning report
8:00-8:30	Breakfast
8:30-9:30	Walk
9:30-11:00	Occupational activity
11:00-11:30	Midmorning snack
11:30-12:15	Group therapy – psychological workshop
12:30-13:30	Doing homework and preparation for educational programmes
13:45-14:15	Lunch
14:15-16:15	Sport and recreational activities
16:30-18:15	Afternoon break
18:30-19:00	Supper
19:00-22:00	Leisure activities (watching TV, playing parlour games, etc)
22:00	Last post

Sunday and holidays:

8:00	Getting up
8:00-8:30	Making beds and personal hygiene
8:30-9:00	Breakfast
9:30-10:00	Walk
10:00-11:30	Teaching material processing
11:30-12:00	Midmorning snack
12:00-13:45	Leisure activities
12:30-13:30	Doing homework and preparation for educational programmes
13:45-14:15	Lunch
14:15-16:15	Sport and recreational activities
16:30-18:15	Afternoon break
18:30-19:00	Supper
19:00-22:00	Leisure activities (watching TV, playing parlour games, etc)
22:00	Last post

The Ministry of Justice of the Federation of B-H

Enclosed find responses to inquiries by the CPS, as follows:

Item 4 Juvenile prison

Article 15 of the *Law on Execution of Criminal Sanctions of the Federation of B-H* stipulates that minors sentenced to juvenile prison sentence as a rule serve their sentence separate from adults.

Considering the current material conditions in the Federation of B-H, most probably in the forthcoming period there will be no significant changes as regards non-compliance with legal regulations and recommendations as to execution of juvenile prison sentence. However, besides the mentioned, there has always been compliance with basic postulate that a minor may not be placed in the same room with adults. The fact that all minors have separate rooms in the Ward confirms the mentioned. However, at the moment it is not possible to secure situation that minors do not meet adult prisoners in the prison area. The only functional solution would be construction of juvenile prison or committal to execution of juvenile prison sentence in East Sarajevo Correctional Institution, in which Juvenile Prison Ward was opened on 1 October 2008 (for 40 juveniles). In the forthcoming period efforts of the Ministry of Justice of the Federation of B-H will be directed towards harmonisation of Entity Ministries as regards more functional way of utilisation of the existing capacities at the State level. Mutual interest of Entity Ministries has been expressed for this harmonisation.

Item 5 Ill-treatment

Regarding Item 5 (ill-treatment in Zenica Prison: paras. 38 and 41), on 9 May 2007 the Prison Management sent the Zenica Canton Prosecutor's Office a document No. 01-12-11/07. The document contained all available evidence (statements and medical documentation), based on which the competent Prosecutor's Office carried out criminal investigation, which was closed by starting a prosecution against a Prison employee on the well-founded suspicion that he has committed a criminal offence ill-treatment in performance of service (from Article 182 of the Criminal Code of the Federation B-H, in relation to criminal offence Slight bodily injury - Article 173 of the Criminal Code). A check carried out on 5 May 2008 in Zenica Canton Prosecutor's Office by the Prison found that case No. KT-1406/07 was under trial, main hearing is expected to take place. The Prison Management has taken all measures to transfer a person under investigation to duties not requiring day to day contact with prisoners.

As regards mass fighting which took place in Zenica Prison, the Prosecutor's Office carried out investigation, the case was handled under No. KTA-713/07. Investigation was closed without bringing charges, with the conclusion of the Prosecutor's Office that there were no grounds for committed crime stipulating prosecution *ex officio*.

Item 6 Outdoor exercise

All prisoners are enabled outdoor exercise for more than two hours daily. The problem arises with detention, for sometimes Detention Ward is overcrowded, while instructions of competent courts referring persons to detention request that certain detainees do not have contacts. A competent court charged with supervision over Detention Ward was informed on the said, giving all necessary instructions as regards human rights of detainees.

Item 7 Health care services, addiction combating strategy

Health service level in Zenica Prison has been significantly improved recently, since medical staffing level has been additionally increased. There are two permanently employed physicians in the Health Protection Ward (a general practitioner and a neuropsychiatrist). It is important to mention that Health Protection Ward moved to new modern equipped premises, containing dispensary, dentist's office and in-patient clinic with 11 beds. This certainly means increase of health services standards for convicted persons.

Regarding activities on addiction combating strategy, underway is adoption of the draft State Action Plan on Combating Drugs Abuse. The Ministry of Justice of the Federation of B-H provided expert assistance and participated in finalisation of the Draft, with particular accent on fields of operation in Correctional Institutions. The Ministry gave its comments to proposed measures and activities necessary to be inserted into the strategy. The Government of the United Kingdom has decided to provide short-term technical assistance in preparation of the Action Plan to the Ministry of Security and its Department for Combating Drugs Abuse, and engaged local consultants` team (from Lucid Linx consultants` firm). They conducted studies, conducted interviews with more than 30 experts from various fields represented in combating drugs abuse, and consulted a large number of relevant documents.

Item 8 Discipline, segregation and pepper spray use

With regard to segregation measure on the grounds of grave breach of discipline, each convicted person is informed in writing of the reasons thereof, i.e. of removal to Disciplinary Ward, with everyday visits by the Prison's physician and internal pedagogue. All this is entered into Book of Observations. All convicted persons have possibility and the right to write complaints, which are recorded in the Book of Complaints. Also, they could contact their lawyer to represent them in this issue. Enclosed are copies of regulations on the use of pepper spray and on procedures and instructions for the use of means of restraint.

Item 9 Complaints and inspection procedures

Confidentiality of correspondence of convicted persons with the outside world is carried out in a way that correspondence is delivered in closed envelopes, without the right to have insight into contents of the envelope. However, letters convicted persons receive by post are opened in the presence of the person concerned only with a view to check the presence of illicit things, without insight into contents of letters. If illicit things are found, there are recorded separately, for which either receipt or minute on seizure of objects is issued. Underway is the establishment of a commission, to be composed by representatives of the State Ministry for Human Rights and Refugees, the Federation B-H Ministry of Health, the Federation B-H Ministry of Labour and Social Welfare, the Federation B-H Ministry of Interior, and the Federation B-H Ministry of Justice, entrusted with establishment of situation and proposal of measures as regards human rights violation complaints, particularly by persons who committed criminal offence in the state of mental incompetence.

Item 11 Zenica Forensic Psychiatry

With regard to recommendations on Forensic Psychiatry Ward in Zenica, there have been no significant improvements. However, number of patients was reduced to 25. In the forthcoming period efforts will be directed towards transfer of patients from Forensic Psychiatry Ward to newly constructed in-patient clinic pending final solution of relocation of all patients to Sokolac Psychiatric Hospital.

Enclosures:

- a copy of Statements from the Code for Correctional Institutions in the Federation of B-H, concerning the use of chemical sprays;
- a copy of Instructions with characteristics of effects and the use of pepper spray;
- a copy of Statements from the House Rules in Detention Facilities, concerning the use of the right to outdoor exercise;
- a copy of Instructions to be followed by Security Department staff during the use of means of restraint and after the use of means of restraint in Zenica Prison;
- a copy of Instructions on procedures of restraint of prisoners and detainees in Zenica Prison.

Enclosure 1

Code for Correctional Institutions in the Federation of Bosnia-Herzegovina

d) the use of chemical means, water cannon and fire-hoses

Article 59

For the purpose of restoring peace and order, a guard may use chemical means used by the police only in case of severe disorderly conduct by prisoners or detainees, in case of mass rebellion or fight, in case when more prisoners or detainees disobey rules, and there is no other way to control them, in case when one or more persons lock themselves or barricade themselves in a room, or prevent in any other way to reach them.

In cases referred to in paragraph 1 of this Article water cannon and fire-hoses may be used, in accordance with rules applied by the police.

Article 60

Chemical means, water cannon and fire-hoses may be used only under order of the Director, his deputy, commanding officer, while outside working hours under order of on-duty official person of the Institution.

Exceptionally from paragraph 1 of this Article, mild chemical means (spray for personal protection) may be used by a guard on his own initiative only in cases stipulated by Article 58 of the present Rulebook.

Enclosure 2

Pepper defence spray

Non lethal weapon with momentarily effect. Active component of this device called “pepper defence” is a permitted level of Oleoresin Capsicum made from red pepper. The device has proved to be superior in relation to tear gases for it very quickly puts under control drunken and psychotic persons, and drug abusers. This weapon attacks mucous membrane (eyes and respiratory system), and prevents in this way further aggressive activities of assailant within 30-minute period.

Instruction for use: Simply direct this device towards an assailant’s face and press the activation button. A cone-shaped beam will flesh from the device. Its range, depending on the model, is between 2.5 and 6 metres. In order to stop beam, simply loosen the button. The point is that it should be ready for use any moment. Thus the activation button should always been in activation position. Therefore it is necessary always to carry this device with you.

Effects of pepper spray are momentarily. In most cases the object of effects will lose full control over his actions. Pepper spray causes inflammation of eye capillary and all other mucous membrane. This leads to immediate blindness, coughing, suffocation, and nausea with large uneasiness, which last up to 30 minutes. There is no need for any special treatment; it is enough to wash eyes with cold water. All other symptoms will last from 30 to 45 minutes, without any permanent consequences.

When to use pepper spray. It is recommended to carry pepper spray while walking, entering buildings, lifts, parking places, jogging, cycling, etc. Pepper spray may be used only in situations when there is justified need to prevent violent contact.

Warning. Pepper spray contains Oleoresin Capsicum A, which is severely skin-irritating. One should avoid the contact with eyes, skin or mucous membrane. Do not pierce or burn, do not expose to heat and open flame, do not expose to temperature exceeding 50° C. The use of pepper spray in purposes other than self-defence is offence under law in force. Persons below 18 may not either posses or use pepper spray. **KEEP OUT OF THE REACH OF CHILDREN.**

It is needed to test pepper spray from time to time, to check its efficiency and to learn how to use it.

- Specific colour contained by pepper spray leaves trail on an assailant’s skin and hair;
- Improved spraying system do not require high precision while directing beam;
- Acts momentarily on individuals affected by drink or drugs;
- Legally permitted;
- Multiple purpose.

Enclosure 3

House Rules in Detention Facilities

Health care of detainees

Article 46

Detainees shall be provided with health care and hospital treatment.

Health care of detainees shall be provided by health service of the Institution.

Costs of health services rendered to detainees in the Institution area shall be born by the Institution and shall be secured from the same positions as accommodation, nutrition, insurance, etc.

Article 47

If necessary, a detainee shall be provided with health treatment in health establishment outside the Institution area.

Costs arisen in case referred to in paragraph 1 of this Article shall be criminal proceedings costs.

Article 48

In case a detainee is dissatisfied with health services rendered to him in the Institution area by health service of the Institution, the same services may be rendered to him in local health establishment, upon his request and subject to approval by the court conducting criminal proceedings.

In case referred to in paragraph 1 of this Article, a detainee shall be first examined by a medical doctor, on which a special note shall be written.

If necessary, a medical doctor or other health worker of the Institution may be present in rendering health services referred to in paragraph 1 of this Article.

Costs of health services referred to in paragraph 1 of this Article shall include health services, transport and security measures (prison-breaking prevention).

Article 50

A detainee shall have the right to procure medicines at his own expense or to receive them from family or other persons.

In case referred to in paragraph 1 of this Article, procured medicines shall be kept in Institution's in-patient clinic and a detainee shall use them under instructions of a medical specialist, and under the control of a medical doctor.

Detainee outdoor exercises

Article 52

A detainee shall be provided with outdoor exercise (hereinafter referred to as: walk) at least two hours daily (each day of the week).

The walk shall be carried out exclusively in a special space for that purpose within the Institution area (hereinafter referred to as: promenade).

Detainees may walk, sit or do sport activities made possible by promenade.

During the walk detainees shall freely communicate in a manner not to disturb peace, order and other disciplinary rules in the Institution.

Walks of detainees shall be carried out under constant supervision of guards.

Enclosure 4

**Closed-type Correctional Institution Zenica
Security Department**

To the INSTITUTION'S DIRECTOR

Subject: The Proposal for the Procedures and Guidelines

The guidelines Security Department members are to follow during and after the use of the means of restraint

- Means of restraint shall never be used as a punishment.
- Employees working directly with prisoners/detainees must be trained to apply the techniques for the minimal force use in order to establish control and restraint
- Using chains and shackles shall be strictly forbidden.
- The prison staff shall not use force against prisoners/detainees unless in case of self-defence, in case of attempted escape or active or passive resistance.
- Means of restraint can be used by guards only in strictly defined situations such as the following:
 1. When it is necessary to prevent escape
 2. to prevent a physical attack on the staff and convicted prisoners
 3. to prevent injuries made either to staff or convicted prisoners/detainees
 4. to prevent convicted prisoners to give resistance to the legal procedure conducted by the official
 5. to prevent convicted prisoners in making injuries to themselves
 6. to prevent damage made by the convicted prisoners
 - Any other use of the means of restraint shall be considered as the law violation and the working discipline violation resulting in disciplinary procedure.
 - The use of means of restraint must be the result of the logical sequence of events and shall be applied according to the circumstances that make guards to use them.
 - Mild types of means of restraint shall be used first (keys, bar, intervention, physical force, stick, pepper spray and handcuffs)
 - Control and restraint of convicted prisoners/detainees shall be performed with the minimal force appliance in order to restrain the aggressive individual.
 - Guards shall be allowed to handcuff convicted prisoner/detainee if there is no other way his resistance can be restrained or the order restored.
 - To handcuff somebody means to put handcuffs on his hands that are on his back.
 - Convicted prisoner/detainee shall be handcuffed in order to be transported to Disciplinary Ward.
 - If the individual puts up resistance and shows aggressiveness even after being handcuffed, and if he puts his own safety as well as the safety of other people and property in jeopardy, his legs can be shackled.
 - The guard shall immediately inform the Director, his superior and duty official in case of the above mentioned.

- Handcuffs shall be removed as soon as there are no longer any reasons for them to be used.
- All guards working directly with convicted prisoners/detainees may use means of restraint when the conditions specified by the law exist.
- Guards shall stop using means of restraint as soon as there are no reasons for them to be applied.
- The guard can temporarily separate and put convicted prisoner/detainee into a special room if that person's actions represent threat to safety of official persons or if they seriously violate the House Rules.
- In case of separation, the guard shall immediately inform a head of shift of prison police guards, the Head of Department, commander and the Director.
- On the first day of a working week, a convicted person's pedagogue shall have a conversation with him. The separated convicted prisoner shall only be returned to his *kolektiv* by the mutual decision made by the Deputy Directors of Security and Education and Treatment Departments.
- Before returning to his *kolektiv*, the convicted prisoner must be examined by the Institution's medical doctor or a medical technician in charge. This examination shall be recorded in his medical file.
- After every use of means of restraint or separation of convicted prisoner/detainee, the head of shift shall contact a medical worker in order to have the medical examination of convicted prisoner/detainee.
- The medical technician or the Institution's medical doctor must record examination in the notebook containing medical examination data.
- The Institution's medical doctor shall record the doctor's finding and opinion in the convicted prisoner's/detainee's medical file.
- In case Institution's medical doctor notices any torture or violence marks, or he receives any allegations on torture or violence, he shall immediately inform the Director so the thorough investigation can be undertaken.
- In cases of chemical spray use, the Institution's medical doctor shall make findings and medical opinion about the effect and the consequences that can be hazardous for convicted prisoner/detainee health.

Report on the use of means of restraint

Introduction

It is important to have in mind that written reports on control and restraint are intended for superiors (commanding officers). These reports are kept as secret documents and can be used in future situations. They convey a clear message about your professionalism and show your capacity to give short and concise information based on facts to your superior so he knows everything he should know about the incident.

Based on contents of your report, people will form their opinion about you even if you are not the communication subject. What and how you write in your report can determine how much credibility is given to your information.

The report is actually presentation of facts, written for the specific reader (your superior) and is kept within the certain time period determined by the law.

It is important that your report meets the following criteria:

- to be based on facts
- objectivity
- gives relevant information
- the accuracy of its subject matter
- short and concise
- written without any slang

Accuracy, conciseness, tidiness, grammatical correctness are the main elements in report writing and they show the character of the person writing them.

It has to be kept in mind that reports can be used at the court and that are kept within the certain period of time determined by the law.

- After the use of means of restraint, each guard shall write his report on it immediately, and 24 hours at the latest.
- His report must contain the following elements:
 1. His name and surname
 2. his rank
 3. his working place
 4. the report record number
 5. the convicted prisoner/detainee name and surname
 6. the convicted prisoner/detainee registration number
 7. exact time and place of the incident
 8. precise and detailed explanation of convicted prisoner's/detainee's actions and conduct
 9. reasons for the use of means of restraint
 10. precise and detailed explanation of the conduct and the ways of use of means of restraint
 11. state the exact mean/means used
 12. names and conduct of his co-workers who take part in order to help
- Together with his report the guard shall submit the following:
 1. convicted prisoner's/detainee's disciplinary report
 2. statement of a convicted prisoner/detainee against whom means of restraint were used
 3. eyewitnesses statements
 4. photo documentation if available
- Report on the use of means of restraint shall be delivered to the commanding officer on the first working day.
- There shall be two copies of the restraint means report together with all annexed documents
- The original shall be submitted to the commanding officer
- One of the copies shall be entered into the convicted prisoner's personal file or in case of a detainee, the copy shall be entered into the Detainee documentation records
- The other copy shall be archived. The archived copy shall be kept with the commanding officer. As soon as the commanding officer receives the report, he shall check allegations and submit it to the Director, together with his opinion on regularity of the guards' action. He checks allegations by conversations with convicted prisoners and officials.

- If firearms or other restraint means are used, with the exception of separation and handcuffs, the Director must inform the Ministry of Justice within seven days.
- When firearms or other restraint means are used against convicted prisoners the President of the court prosecuting a case shall be informed.

Recording of means of restraint

- Each use of means of restraint shall be recorded in the Records Book for Restraint Means Use.
- The Records Book for Restraint Means Use contains the following data:
 1. serial number
 2. report's record number
 3. convicted prisoner/detainee name and surname
 4. identification number and *kolektiv*
 5. date and time of recording
 6. short description of the use of restraint means
 7. full name and surname of a person who has written the report
 8. full name and surname of a person who has registered the report
- The Records Book for Restraint Means Use shall be with hard covers and printed in the printing office
- The Records Book for Restraint Means Use shall be run and kept by the head of shift
- The Records Book for Restraint Means Use shall be delivered to the commanding officer each working day

The Guidelines for conducting investigation into allegations of convicted persons

- Investigation into allegations of convicted persons is conducted by the Head of the Security Department
- We ask for the restraint means use report against the convicted prisoner/detainee
- We ask for the convicted prisoner/detainee statement
- We ask for the written information of the official
- We ask for the written statements of the eyewitnesses
- We ask for information of officials who took part in separation and of guards who took convicted prisoner into the Disciplinary Ward
- We ask for medical documentation on injuries by official person
- We ask for weapons/tools
- We ask for video record
- We talk to convicted prisoner
- We talk to the official who signed the report
- We talk to the main duty officer in the Institution
- We talk to the eyewitnesses
- We talk to the medical staff

During the allegations investigation the following persons are to be present:

- The Head of Security Department
- The convicted prisoner's pedagogue
- The Institution's medical doctor or a medical technician in charge
- The convicted prisoner/detainee concerned

After the investigation the Head of Security Department writes the report containing all details and information he managed to collect together with the pedagogue and medical doctor during the conversation and check of the written materials.

The Institution's Director can appoint an independent commission in order to check the convicted prisoner's allegations. This commission also writes the report on found facts and delivers it to the Director.

All new facts and information obtained by the investigation are annexed to the report.

The report is delivered to the Institution's Director and has to contain answers to following questions: who, what, how, where, when and what.

The Guidelines for action in critical situations to Chief on-duty officer

In critical situations and in case of incidents taking place in the Institution, including convicted prisoners' protests, food refusal, refusal to leave certain premises, barricades, staff high jacking, escape, attempted escape, fight among larger number of convicted prisoners, fire, flood, earthquakes, the Chief on-duty officer shall take all necessary actions in order to rescue people and the Institution's property.

It is not possible to name every possible situation that can occur in prisons. However, the institution management shall adopt plans for possible riots and discipline disobeys, since these are the most common incidents and critical situations within the Institution.

In case when convicted prisoners break discipline by making barricades, refusing to leave certain premises or when they violate rules and the law, the Chief on-duty officer shall immediately:

- Go to the spot to see for himself extension of the incident and who the leaders and organizers of the incident are, the number of the people involved, what their reasons are, hear the possible demands and see if any cold weapon is in their possession. So he collects all needed information.
- He shall act calmly, communicate reasonably to anybody who has to say something and try to calm the situation down and buy some time before arrival of guards.
- He shall inform and warn all guards at work about the incident
- He shall warn guards to be maximally careful and on alert.
- He shall remove all outside collaborators and customers out of the Institution
- Visitors of convicted prisoners shall politely be asked to leave the premises
- He shall inform the Director, Deputy Director, Assistant Directors for Security, Education-Treatment, Health Care, a criminologist, the fireman in charge and supervisors.
- He shall designate two guards to call Security Department staff, starting with those who live near the Institution.

- If there are injured individuals, he shall give orders that medical help is rendered in the Institution's in-patient clinic in order to protect health and lives of individuals.
- He shall order blocking of telephone booths within the institution and in the Outer Pavilion. Telephone booths shall be blocked in a premise in which switchboard is placed.
- He shall inform Zenica Police Administration and ask for help in ensuring the outer part of the Institution pending arrival of guards from their homes.
- He shall call the Zenica Emergency Medical Unit to come in front of the Institution. In case of serious injuries the Zenica Emergency Medical Unit doctor and medical staff give first aid to visitors.
- He shall inform Zenica Professional Fire Brigade to come to the Institution immediately, regardless of fire. The Fire Brigade shall remain with its vehicle in front of the Gate IV and wait for the tasks.
- He shall make deployment for new arriving guards for reinforced safeguarding of the outer part of the Institution. The armed guards move down the path from one blockhouse to another and their task is to prevent the attack from the outside as well as prison-breaking.
- The guards who have arrived shall be deployed in groups of three within the Institution's area and their task is to prevent the incident to be spread on the other parts of the Institution.
- With the arrival of responsible staff from the Institution's Management, together with the Internal Security Supervisor, he shall receive orders on further actions, deployment, interventions, separation and other actions for the purpose of bringing situation under control and elimination of the incident.

Suicide and individual deaths in the Institution

- The guard who notices the individual that committed suicide shall immediately call for help other guards in his shift and a medical worker.
- The head of shift shall prepare vehicle and escort to health care institution outside the Institution for possible medical help.
- The Chief on-duty officer shall go to the spot
- In case suicide is committed by hanging the guard shall free the convicted prisoner from the noose.
- He shall try to find any signs that the individual is still alive
- He shall give the first aid and wait for arrival of a medical doctor.
- The medical doctor, or a medical technician establish the signs of life
- The individual shall be urgently sent to the hospital
- If the medical doctor establishes the death, the Head of Shift shall safeguard the scene.
- The scene shall always be safeguarded by two guards.
- The Head of Shift shall immediately inform the Director, commander, police and the competent court if the deceased was a detainee.
- After investigation conducted by the police and the prosecutor/judge, the deceased shall be taken to the morgue.
- The Institution shall inform the close family of the individual about the death.

Self-harm

Prisoners and detainees often make injuries to themselves. They do this in order to draw attention to their problems, demands or needs. They often do this due to certain actions of the Institution staff, disciplinary treatment, punishment, segregation, etc.

- The guard shall listen to the convicted prisoner who threatens to injure himself and try to talk him out of his intention.
- He shall demand the individual to put away the object he intends to use in order to make injuries to himself.
- The guard shall use the restraint means to prevent the individual to self-harm himself.
- If the individual has already injured himself, the staff shall give him the first aid.
- The Institution's medical doctor or a medical technician shall decide where to place the self-injured individual (*kolektiv*, medical solitary cell, solitary cell)
- The guard shall make an official note about self-injuries and he shall deliver it to his superior/Director.
- The guard shall file disciplinary report under which a possible payment of damage can be demanded. This notification is presented to the Treatment Service to be informed on self-injuries.

Fire in the Institution

- In case of fire in the Institution, a guard shall immediately start fire fighting;
- The guard shall sound the alarm and notify a Chief on-duty person in the Institution;
- If fire occurs in premises in which people stay, they shall be moved to safe places;
- The guard shall move all inflammable matters from the premises in which the fire occurred;
- In fire fighting the guard shall use easily accessible fire fighting devices (fire extinguisher and means at hand);
- Electrician on duty shall be notified on fire, and he shall switch off network voltage in the building in which the fire broke out;
- Pending arrival of Professional Fire Fighters a Head of Shift shall organise a fire fighting team composed of the Institution staff (guard fire-fighters I and II, guards out of duty, instructors, and other staff);
- In case of large-scale fire, Professional Fire Fighters shall be notified by a Head of Shift;
- The Head of Shift shall take care of overall security within the Institution (guards on key positions stay in their working places);
- Medical staff shall also be active and ready to render assistance to the injured;
- All available means shall be used for fire fighting (means at hand, fire extinguishers, hydrants, fire-hose, sand, etc);
- The guard shall organise calling of and extraordinary engagement of all disposable staff of the Institution for the purpose of people and property saving;
- Upon arrival to the Institution, a Head of Permanent Fire-fighting Team (chief fireman) shall act under Firefighting Plan, organise manpower and use all disposable fire fighting devices (hydrants, fire-hoses, and similar);
- A report must be written on the used fire fighting devices and material damage caused by fire;
- The chief fireman shall regularly control validity of fire extinguishers, hydrants, passability of fire fighting pathways and exits, and shall regularly notify and report the Director of the Institution or a person authorised by him and a commanding officer.

In case the electricity went out

- If necessary, all guards should be informed on the existence of power unit which could replace a permanent source of electric energy;
- All guards in the Institution must take care of proper technical functioning of battery lamps on posts;
- A head of shift should be familiarised with instructions for operating a power unit (how to start it – automatically – manually), as well as with number of electric appliances which are operational by means of a power unit;
- Following order by a head of shift of prison police guards, an Institution's on-duty electrician shall immediately go to power unit to switch it on;
- A head of shift shall notify other guards to switch off all electrical appliances whose functioning is not necessary, for the purpose of functioning of lighting on the wall and in the Institution area;
- In case the electricity went out during the night, an Institution's Chief on-duty person shall organise withdrawal of all convicted persons from sections;
- Guards who safeguard sections and instructors immediately gather convicted persons to one place, count them and escort them to their *kolektivs*;
- An Institution's chief on-duty person organises intensified rounds of outside part of the Institution's area, and walls of the Institution, in order to prevent prison-breaking and attack to the Institution from outside;
- The Institution's on-duty electrician informs an on-duty dispatcher of Electro-Zenica for the information on length of time the Institution is out of electricity; on which he informs a head of shift of prison police guards;
- Electricity failing is recorded by a head of shift of prison police guards in a Book of Information (time, and other observations on electricity failing);
- A head of shift of prison police guards and on-duty electrician ensure constant operation of a power unit;
- A head of shift of prison police guards appraises overall security situation (in a sense of calling guards from their homes, and similar);
- In case of sabotage, an investigation is conducted.

Hunger strike (food and water refusal)

Hunger strikes very often occur in all controlled areas (prison and detention facilities). Sometimes it is justifiable, while sometimes it is unjustifiable. In this way individuals want to call somebody's attention to themselves and solution of certain problems, requests and needs they meet in the course of their stay in prison and detention facilities.

The Institution is obliged to care for life and health of individuals in the said situations too, while prison staff is obliged to follow certain procedures to make it happen.

- In principle and in practice, an individual first inform a guard he has stop taking food and water;
- An on-duty guard in charge of security of individuals who has received such information is obliged to immediately inform a pedagogue, the Institution's doctor/medical worker, a Head of Department and an Institution's chief on-duty person;

- A chief on-duty person enters into Book of Information name and surname of an individual refusing food and water, and possible reasons and allegation for doing so, and in this way familiarise the Institution's Director and commanding officer;
- In case of detainees refusing food and water, the Institution is obliged to immediately inform a court in charge with prosecution;
- Pedagogue and a Head of Department conduct interview with an individual, through which they find out reasons for food and water refusal;
- After the interview, they try to help an individual with solving the problem;
- In case when an individual refuses food and water even after the interview, the case is taken over by medical service;
- The Institution's medical doctor examines the individual concerned;
- Weight of the individual concerned is checked daily by medical service;
- During the day medical service carries out regular medical supervision over the individual concerned (measure blood pressure and other parameters);
- Data and parameters on the individual's condition are duly recorded into his/her medical file;
- In principle, the individual is placed in the Institution's in-patient clinic by the Institution's doctor;
- The individual may be forcibly fed if food and water refusal lasts longer period of time and life and health of the individual put in danger to the point that the individual may die;
- A decision on forcible feeding is made by doctors' consultation (the Institution's doctor, and three doctors from other medical institutions);
- A guard in charge of security of individuals in a building the individual refusing food and water is placed daily notes in a Book of Observations activities taken to help the individual refusing food and water.

Procedures followed by Security Department staff in detection with an individual of matters which could be associated with drugs and takeover of those matters to the police

Drugs in prisons have been an increasing problem and challenge both to inmates and the prison staff charged with caring for life and health of individuals in the Institution. It is necessary to follow procedures in order to protect individuals and the staff which is in direct contact with drugs consumers who smuggle drugs in the Institution's area.

- A guard who detects matter which could be associated with drugs immediately informs a head of shift of prison police guards;
- The guard concerned safeguards the spot pending arrival of a head of shift of prison police guards, with the assistance of his co-worker;
- The guard concerned organises search of premises where the individual was at the time of detection of matter, as well as of a premise in which the individual stay and work;
- The matter is examined closely, photographed and weighted by the head of shift of prison police guards;
- Internal minutes is made on seized matters, containing:
 - Name and surname of the convicted person;
 - Identification number of the individual;
 - *Kolektiv*;
 - Number of the Minutes;
 - Exact description of detected matters;
 - Description of wrapping material (foil, paper, nylon, condom, and similar);

- Number of wrapping material pieces (number of small parcels, tablets, and similar);
- Gross weight of each individual package;
- Gross weight of all packages together;
- Signature of a person matters are seized from;
- Signature of a head of shift of prison police guards;
- Place, date and time.
- The individual with whom the matter is detected is placed to Disciplinary Ward;
- Seized matters is packed in bags by a head of shift of prison police guards; bags are numbered, name and surname of the individual, gross weight and date are place on the beg;
- The Director, the commanding officer, a criminologist, Head of Department and the police are informed on the activities by a head of shift of prison police guards;
- Takeover is done in the visit room upon arrival of the police;
- Takeover is attended by the person matters are seized from, police officers, a head of shift of prison police guards and the guard;
- In the course of takeover police officers are not allowed to conduct any talks, except for the purpose of taking down particulars;
- Receipt on seized matters is made in 4 copies by police officers, and has to be signed by the police officer who has made it and by the person matters are seized from;
- One copy is taken by the convicted person matters are seized from, while one copy is taken by a head of shift of prison police guards;
- A disciplinary report is written by the guard who has detected the matters. The disciplinary report is accompanied by the convicted person's statement, possible witnesses' statements, information of the guard on search of premises, a copy of Internal Minutes, and a copy on seized matters by the police;
- The Head of Department makes 2 copies of collected documentation and delivers them to a criminologist.

Procedures with detection of matters which could be associated with drugs on neutral space and when owner is unknown

- A guard who detects matter which could be associated with drugs safeguards the spot;
- The guard calls a head of shift of prison police guards to come at the spot;
- A head of shift of prison police guards organises search of premises;
- Photographs are taken of the spot and detected matters;
- Detected matters are weighted;
- A head of shift of prison police guards writes official annotation on appearance, package, gross weight, place, time, names of guards who have detected the matters, names of persons who stay and work in that area;
- All collected information is transmitted to the Head of Department, who transmits it to commanding officer and a criminologist in two copies;
- A criminologist conducts investigation and tries to establish ownership over the detected matters;
- The detected matters is transmitted by a criminologist to the police for analysis;
- If the police, following analysis and return of the matters in the Institution, found that the matters are drugs, the Director of the Institution, upon proposal by a criminologist, establishes a commission composed of three members, for destruction of the matters.

For the purpose of respect of human rights of convicted persons, and protection of Security Department staff, we ask you to consider these Proposals of Guidelines. In any case, these guidelines may be subject to corrections, following consultations with other competent official persons.

It is necessary that all Security Department staff through the training be familiarised with guidelines and procedures, and their importance. It is only the trained staff which could respond to challenges occurring in establishments such as the Closed-type Correctional Institution Zenica.

Enclosure 5

**The Instruction on Procedures of Restraint of Prisoners and Detainees
Unplanned restraint of individuals**

1. In case an individual starts behaving badly and disturbing House Rules (e.g. to swear, to destroy Institution's property, or to try to assault other prisoner or prison police officer – guard), a prison police officer – guard shall immediately call a head of shift (by radio station, telephone) and ask for help.
2. If the guard concerned is in the courtyard – sports ground, he shall call for help by radio station.
3. A head of shift shall immediately send other guards to help him.
4. A guard in a place where an individual disturbs House Rules shall try to calm the individual concerned through conversation, watching his own security.
5. A guard must never enter a cell or any other premises in which there are prisoners and detainees.
6. Upon arrival of other guards, they shall warn an individual to calm down; otherwise they shall use physical force.
7. If an individual refuses to calm down, guards shall restrain him physically using handcuffs, baton, chemical spray or other means of compulsion.
8. The use of physical restraint must be proportional to resistance offered by an individual. As soon as an individual stops offering resistance, a guard must stop using means of physical restraint.
9. If an individual is on the sports grounds, walk or library, he shall be immediately escorted by a guard to isolation cell.
10. Upon the end of using of physical restraint, a guard shall prepare a report and inform a head of shift.
11. A guard shall enter the following information in the report: identification number and name of an individual, date and time, part of the establishment in which an individual disturbed House Rules, description of incident, number and names of guards restraining an individual, means of physical restraint used, and signature of a guard who prepared the report.
12. An individual subject to physical restraint must be examined by an Institution doctor.
13. When an individual is calmed down, he shall be escorted by a guard for medical examination. In case it is not possible due to his condition, he shall be examined by a doctor in an isolation cell.
14. A guard in whose zone of responsibility an individual disturbed House Rules shall write disciplinary report and submit it to a head of shift.

Planned physical control and restraint of prisoners and detainees

A guard must know that control means measures taken by management to prevent disturbance of House Rules by an individual. If House Rules are disturbed to a great extent, control over individuals may be established, among others, by the use of physical compulsion. The use of physical compulsion may be planned and unplanned. Whenever possible, a guard must avoid the use of unplanned physical compulsion and means of physical restraint. A guard may never use means of physical restraint alone. A guard shall use means of physical restraint in accordance with the Law on Execution of Criminal Sanctions and planned procedures contained in the Instruction on Actions in Critical Situations. Hence there is a sequence of activities for planned physical control and restraint of an individual.

Procedures for planned physical control and restraint of an individual:

1. In case of disturbing House Rules, a guard shall call a Head of Shift (by radio station, telephone).
2. A Head of Shift shall check in which part of the institution and to what extent House Rules are disturbed through video-surveillance or by calling a guard who has called a head of shift.
3. A guard who has called a Head of Shift shall secure the spot and shall inform a head of shift on all new developments.
4. A Head of Shift shall inform the director of the institution on the extent of House Rules disturbance by individuals.
5. A Head of Shift shall ask permission from the Director for the use of means of physical compulsion, handcuffs, baton, and other.
6. A Head of Shift shall assess if it is necessary to call guards at their homes to come to intervention.
7. A Head of Shift shall select guards to restrain an individual (a special platoon).
8. A Head of Shift shall inform guards on the problem and issue an order to restrain an individual by the use of means of physical restraint.
9. A Head of Shift shall appoint a supervisor to supervise activities in the group of guards restraining individuals.
10. A Head of Shift shall issue necessary equipment to guards, namely: helmet, shield, rubber baton, handcuffs, and other.
11. A guard shall put on the equipment and set off for the spot in which House Rules are disturbed by individual(s).
12. Upon arrival to the spot, a guard on the spot shall inform other guards on incidents.
13. A guard shall first try to calm down individuals through conversation; in case he fails he shall inform an individual he shall be subjected to physical restraint.

(In case of larger group of prisoners – detainees, the director shall decide on the number of guards to be engaged on intervention and means of compulsion to be used).

14. While using means of compulsion in the beginning a guard shall always apply the mildest form.
15. Before the very use of physical restraint, guards equipped with necessary equipment shall be deployed to stand one behind the other in a single file.
16. A guard with a shield shall stand at the head of the file and shall wear a shield to protect upper part of the body and head from possible injuries; remaining two guards shall stand behind him.
17. A guard who safeguarded an individual shall stand behind the door, ready to unlock it upon a supervisor's command.
18. Guards who restrain an individual shall start out together at a given signal, moving one after the other.
19. Upon unlocking and opening of the door, a group of guards shall enter a cell or a room and press an individual against the wall using a shield or in the corner of a room.
20. A guard at the head of the file wearing a shield shall strongly press an individual against the wall, while a guard in the middle of a file shall move right and catch an individual by his left hand; the last guard in the file shall move left and catch an individual by his right hand.
21. When guards have firmly held an individual by his hands, an individual shall be knocked down to floor and handcuffed.
22. A handcuffed individual shall be escorted to a disciplinary ward's cell and shall keep handcuffs until he has calmed down.
23. An Institution's doctor shall propose a medical solitary cell and binding of a prisoner (in a straitjacket) if a prisoner – detainee selfhurts himself.
24. A guard shall remove handcuffs from a prisoner – detainee when he has assessed that he has calmed down, and shall escort him to medical examination by Institution's doctor, or shall be examined by a doctor in a cell.
25. Upon completion of activities on restraint, guards shall hand over the equipment to a head of shift.
26. Upon handing over of the equipment, a guard supervising activities shall write a report on taken measures.
27. A guard who has alarmed a Head of Shift shall write a report on incidents and inform a head of shift.
28. A Head of Shift shall write a report and inform the Institution's director on taken measures.
29. A guard who has alarmed a Head of Shift shall write a disciplinary report against an individual who disturbed House Rules.

The Ministry of Labour and Social Welfare of the Federation of Bosnia-Herzegovina

Social care homes

With regard to clarifications on solution of legal status of social care establishments caring for persons in social need in the Federation B-H, namely those caring for persons with special needs, and activities taken on preparation of the strategy and cooperation with the said institutions, we inform you the following:

The Parliament of the Federation of Bosnia-Herzegovina has enacted the *Law on Taking the Rights and Obligations of Founders of Social Care Establishments in the Federation of Bosnia-Herzegovina*. The Law was published in the Official Gazette of the Federation of B-H, No. 31/08 from 2 June 2008, and entered into force on 3 June 2008.

The Steering Boards and the Supervisory Boards of social care establishments were elected in accordance with this Law and the *Law on Ministries, Government and Other Appointments in the Federation of Bosnia-Herzegovina* (Official Gazette of the Federation of B-H, Nos. 12/03 and 34/03).

Under conclusions of the Parliament of the Federation of B-H, social care development programme, with emphasis on social care establishments and measures to solve problems concerning them are conditional upon enactment of the said Law. Appointed management bodies of these social care establishments will be included into their implementation (paras. 115, 117, 121, 122, 124, 134, 125).

With regard to recommendation in paragraph 126 on progress made in the use of alternative strategy for binding in "Drin" Home for Mentally Disabled Persons, we inform you that the Institute respected the recommendation and introduced more humane protection of inmates through provision of more humane bindings and of premises rehabilitated for that purpose.

With regard to recommendation in paragraph 136 that competent authorities take necessary steps to secure that all persons subject to proceedings, for the purpose of deprivation of legal capacity, be systematically heard in court, to be issued a copy of court decision, to be informed, verbally and in writing, of the possibility to appeal against a decision depriving them of legal capacity, we inform you that the Family Law of the Federation of Bosnia-Herzegovina stipulates that a person being deprived of and restored of legal capacity shall be issued a court summons and heard in person by the court, unless hearing of the person concerned is not possible under court assessment due to his/her health condition or could be harmful to him/her.

Moreover, the Family Law stipulates that decision on deprivation or restriction of legal capacity is issued to a person who filed a proposal for initiation of proceedings, to a person being deprived of legal capacity, his/her guardian and guardianship authority. The said decision may not be issued to a person being deprived of legal capacity if he/she is not capable to understand the meaning and legal consequences of the decision or if it would harm his/her health. Remedial act, i.e. the right to appeal is obligatory element of the decision on deprivation of legal capacity. The Law stipulates that an appeal may be filed against a decision on deprivation of legal capacity by a persons being deprived of legal capacity regardless his/her health condition.

Concerning recommendation in paragraph 137 that the relevant authorities take the necessary steps to ensure that legal guardians fulfil their duties responsibly and in the interests of their wards, we emphasise that the Family Law of the Federation of Bosnia-Herzegovina stipulates that guardianship authority appoints a guardian to an ward placed in educational, health or other institution to perform those tasks not performed by that institution within its regular activity.

A guardian is obliged to submit to the guardianship authority a report on its work and on the state of ward's property in January for the previous year, and whenever the guardianship authority requests so. In case of direct guardianship, report is submitted by appointed person employed in the guardianship authority. It must be visible from the report how a guardian or a person employed in the guardianship authority cared on ward's personality and protection of his/her interests, particularly on his/her health and education. The report contains information on management of property and all ward's incomes and expenditures in the previous year, and information on the final state of ward's property.

The guardianship authority is obliged to thoroughly consider the report and, if necessary, to take appropriate measures for the protection of the ward's interests. Besides monitoring of work of guardians through acceptance of report on work, the guardianship authority is obliged to control periodically, by personal insight, how a guardian performs duties towards a ward. A guardian shall be removed from office by the guardianship authority if negligence in fulfilment of duties, misuse of authority, threat to ward's interests are found, or if the guardianship authority estimate that appointment of another guardian would be more useful for a ward.

The Federation B-H Ministry responsible for social protection and responsible inspection bodies carry out supervision over professional work of social care establishments (centres for social work as competent guardianship authority, and establishments caring for persons with special needs).

The Ministry of Health and Social Protection of Republika Srpska

- **The Ministry of Health and Social Protection of Republika Srpska – Department for Social, Family and Child Protection**

Working version of the Draft Law on Social Protection of Republika Srpska stipulates development of mix social protection system, through development of extended rights, which are system of support in everyday life to all persons with disability, and development of programmes through various forms of protected housing.

Since the new Law will undergo certain changes prior to final adoption by the National Assembly of Republika Srpska, relevant provisions concerning guardianship, protection during stay in institutions, deprivation of legal capacity and guardian's duties will be communicated to you after entering into force of the Law.

- **Višegrad Institution for the Protection of Female Children and Youth**

RULES on Restriction/Isolation of Anxious Patients (the use of physical force in the protection of persons with mental disorders)

Article 1

Physical force in the protection of persons with mental disorders may be applied in the Institution only when it is the only way to prevent the person concerned to threaten by his/her assault life or health of another person, or his/her own life or health, to destroy violently, or to damage somebody else's property.

Physical force shall be applied only at the extent and in a manner necessary to remove danger caused by an assault of a person with mental disorders.

Article 2

Decision on application of physical force or segregation (isolation) shall be made by a psychiatrist, while a nurse shall supervise its application.

Duration of physical force application may not be longer than 2 hours.

In exceptional cases a psychiatrist may make a decision on extension of application of physical force, but not longer than 2 hours.

When due to exceptional urgency it is not possible to wait for a decision made by a psychiatrist, a decision on application of physical force or segregation may be made by a nurse, who shall inform immediately a chief nurse and a psychiatrist, who shall decide on its further application.

Article 3

In the application of physical restraint with persons with mental disorders, it is obligatory to secure monitoring of physical and mental condition by professional medical staff.

Restricting and fixation are technically carried out in the following was:

- bindings with magnetic locking;
- these measures are applied without the presence of other patients.

Article 4

The person concerned shall be warned, if allowed by the conditions, before application of physical force.

Reasons, manner and measures of application of physical force, and name of a person who has made a decision on its application, shall be recorded into a patient's file, and into a Register of Records of Restriction and Isolation of Anxious Patients.

A legal representative or a guardian of a person with mental disorders shall be informed on the application of physical force or isolation.

Article 5

Authorised officials of competent Ministries of Interior shall upon call provide assistance to health workers in restraint of physical resistance by persons with mental disorders, as long as the person concerned puts up resistance and until caring for and removal of immediate threat of the person concerned is secured.

Article 6

In case of immediate threat that a person with mental disorders could attack the life or limb of a person, or seize, destroy or severely damage property of the Institution with his behaviour, officials of the Ministry of Interior shall provide adequate assistance upon the call by medical workers.

A person who has sent a call shall subsequently explain reasons in a written form, and insert the explanation in a medical documentation.

Article 7

All medical workers holding position of responsibility shall be familiarised with the said Rules established under this Decision and shall obey them in full.

Article 8

The Decision shall enter into force as of the day of its adoption.

**R ULEBOOK
on Restriction/Isolation of Anxious Patients**

1. Restriction shall be done only in necessary situations, when measures of medicamentous, psychotherapy and social intervention proved to be unsuccessful.
2. Restriction/fixation shall be proscribed by a nurse, who enters all details into register and file of a patient, upon approval by a chief nurse.
3. Restriction/fixation shall be technically done in a following way:
 - o Restriction of hands by binding with bindings with magnetic locking. These measures are taken without presence of other patients.
4. Duration of restriction/fixation shall be determined by a chief nurse, and it should not be longer than 2 hours.
5. A patient's condition should be supervised continuously during physical restriction/fixation.

• **Sarajevo East Clinical Centre – Sokolac Psychiatric Hospital**

1. The capacity at Acute Forensic Ward has decreased from 27 to 25 beds in the last six months. At the moment there are 22 patients at Acute Forensic Ward. The capacity of daily stay of patients has been extended, which approximately fits to proscribed standards. In the period from 1 January 2008 to 30 September 2008 the capacity at Court Rehabilitation Ward was reduced for 5 patients; 13 patients were released. Underway are activities on solving of proposals for 8 patients submitted by competent courts.
2. Depending on weather conditions, patients stay two hours in outer room in front of the Court Ward building.
3. Individual treatment plan for each patient has been prepared, in accordance with intellectual capacities and psychopathology. The plan means integrative therapeutic protocol, which includes application of adequate pharmacotherapeutic protocol, psychotherapy (group and individual), sociotherapeutic procedures (group sociotherapy, therapeutic group meeting), occupational and sport-recreational treatment.
4. With a view of prevention and resocialization of persons with mental disorders in Sokolac Psychiatric Hospital there are range of sociotherapeutic procedures, which has to make completely resocialised person ready to return to society he comes from. One of such procedures is sociotherapeutic group with elements of psychotherapy, in which patients and their therapists work towards correcting and adjusting behaviour, in accordance with socially acceptable norms.
Upon leaving the Institution the persons concerned are under supervision of Centres for social protection and Centres for mental health in the places of residence.

5. There was no application of means of restraint at Court Rehabilitation Ward in the mentioned period. Acute Court Ward has guidelines on the application of means of restraint and proper records on their application so far.
6. The Commission for Protection of Persons with Mental Disorders was appointed in 2006 by the RS Ministry of Health. It is composed of 5 members. In the past period it carried out working visit to Sokolac Psychiatric Hospital (Court Ward). The Commission is operative and operates under the *Rulebook on the Establishment, Work and Funding of the Commission for Protection of Persons with Mental Disorders* (Official Gazette of Republika Srpska, No. 15/06).
7. Corrections of legal and institutional measures concerning criminal proceedings against mentally ill individuals: at RS Ministry of Health and Social Protection level this area is regulated by the *Law on Protection of Persons with Mental Disorders* (Official Gazette of Republika Srpska, No. 46/04) and the *Rulebook on the Establishment, Work and Funding of the Commission for the Protection of Persons with Mental Disorders* (Official Gazette of Republika Srpska, No. 15/06). Other regulations on this area are under competence of the Ministry of Justice of Republika Srpska and the Ministry of Justice of Bosnia-Herzegovina.
8. Underway is registration procedure for Special Forensic Psychiatry Hospital.

THE DECISION

on Establishment of Rules for Restriction and Isolation of Anxious Patients (application of physical force in the protection of persons with mental disorder)

Article 1

Physical force in the protection of persons with mental disorders may be applied in health care establishments, i.e. at Hospital only when it is the only way to prevent the person concerned to threaten by his/her assault life or health of another person, or his/her own life or health, to destroy violently, or to damage somebody else's property.

Physical force shall be applied only at the extent and in a manner necessary to remove danger caused by an assault of a person with mental disorders.

Article 2

Decision on application of physical force or segregation (isolation) shall be made by a psychiatrist, who shall supervise its application.

Duration of physical force application may not be longer than 4 hours.

In exceptional cases a psychiatrist may make a decision on extension of application of physical force, but not longer than 4 hours.

When due to exceptional urgency it is not possible to wait for a decision made by a psychiatrist, a decision on application of physical force or segregation may be made by a medical doctor or a nurse, who shall inform immediately a psychiatrist, who shall decide on its further application.

Article 3

In the application of physical restraint with persons with mental disorders, it is obligatory to secure monitoring of physical and mental condition by professional medical staff.

Restricting and fixation are technically carried out in the following was:

- Restriction of hands by soft leather bands;
- Closing patients in isolation room (Female Acute Ward);
- Closing patients in isolation room (Male Acute Ward);
- Closing patients in isolation room (Court Ward);
- these measures are applied without the presence of other patients.

Article 4

The person concerned shall be warned, if allowed by the conditions, before application of physical force.

Reasons, manner and measures of application of physical force, and name of a person who has made a decision on its application, shall be recorded into a patient's dossier, and into a register of files on restriction and isolation of anxious patients.

A legal representative or a guardian of a person with mental disorders shall be informed on the application of physical force or isolation.

Article 5

Authorised officials of competent Ministries of Interior shall upon call provide assistance to health workers in restraint of physical resistance by persons with mental disorders, as long as the person concerned puts up resistance and until caring for and removal of immediate threat of the person concerned is secured.

Article 6

In case of immediate threat that a person with mental disorders could attack the life of limb of a person, or seize, destroy or severely damage property of the health care establishment, i.e. Hospital with his behaviour, officials of the Ministry of Interior shall provide adequate assistance upon the call by medical workers.

A person who has sent a call shall subsequently explain reasons in a written form, and insert the explanation in a medical documentation.

Article 7

All medical workers holding position of responsibility shall be familiarised with the said Rules established under this Decision and shall obey them in full.

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The Decision shall enter into force as of the day of its adoption.