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PLACES OF DETENTION IN SERBIA

*Report from the visit of the delegation of human rights NGOs to places of detention in Serbia on 29
May and 01 June 2005*

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Executive Summary

On 30 and 31 May 2005 representatives of the International Helsinki Federation for Human Rights (IHF) conducted a mission on monitoring places of detention in the Republic of Serbia. This was the fifth mission under the project “*Preventing Torture in the Closed Institutions of Central and Eastern Europe*”, financed by the European Commission. The delegation included representatives from the following organizations (in alphabetical order): Bulgarian Helsinki Committee; Greek Helsinki Monitor; Helsinki Committee for Human Rights in Serbia; Helsinki Committee for Human Rights in the Republic of Macedonia; Helsinki Foundation for Human Rights in Poland; Hungarian Helsinki Committee; International Helsinki Federation for Human Rights (IHF); Moscow Helsinki Group.

The delegation visited three types of institutions:

1. a) Institutions for confinement of persons who had committed criminal offenses under the authority of the Ministry of Justice detained on suspicion of having committed an offence or of being sentenced for criminal offences under the authority of the Ministry of Justice
b) The Prison Hospital in Belgrade, also under the authority of the Ministry of Justice
c) Juvenile prisons for the purpose of re-education, under the authority of the Ministry of Justice
2. Institutions for involuntary psychiatric hospitalization for the purpose of active treatment of mentally ill individuals under the authority of the Ministry of Health
3. Institutions for involuntary placement of persons with developmental disabilities for the purpose of social care under the authority of the Ministry of Social Care.

Institutions that the IHF delegation visited are:

- District Prison in Belgrade
- Prison Hospital in Belgrade
- Penitentiary Reformatory for Juveniles in Valjevo
- Penitentiary Reformatory in Požarevac
- Penitentiary Reformatory for Women in Požarevac
- Penitentiary Reformatory in Niš
- Psychiatric Hospital in Gornja Toponica
- Special Institution for Children and juveniles with intellectual disabilities in Stannica

Serbian authorities and the staff in all visited institutions were for the most part cooperative during the delegations' visits. The assessment of the situation was established on the basis of the visits that the IHF made, the conversations with staff and inmates that were carried out by the IHF, and the written evidence that was submitted to IHF's review. Drawing on their findings, the members of the IHF mission then formulated a number of recommendations on ways of improving the existing conditions of the visited facilities. In the course of this investigation, the IHF found the following shortcomings: During the visits to the closed institutions in Serbia, the delegations were not always able to conduct private interviews with the inmates without close supervision of the prison authorities. The prison directors and other staff members were often in the immediate vicinity of the inmates, which prevented an objective information-gathering. Although all visited institutions were provided with and asked to fill out a general information questionnaire in advance, some of the institutions did not complete the questionnaire. One institution's director refused to provide information altogether, while some others failed to follow up with the additional information they had initially promised, or claimed that they did not have some of the requested information.

In the **Ministry of Justice facilities**, the IHF delegation found that the Serbian system does not adequately deal with complaints of ill-treatment. The existing procedures for dealing with cases of torture and ill-treatment should be reviewed in order to ensure that whenever injuries recorded by a doctor are consistent with allegations of ill-treatment, the information is brought to the attention of the relevant authorities. When suspicions of ill-treatment are raised, doctors should not only record the

information, but also notify the prison governor and prison administration, and not wait for the victim to lodge a complaint. Medical care in the prisons does not comply with the standards of the national health care system and is of a poor quality. Furthermore, both quality and quantity of food for juveniles should be improved.

The IHF delegation also observed that prison governors exercise a broad scope of discretion. This discretion should be narrowed and made subject to control. The delegation recommends further that the Serbian government take steps to fight corruption in the prisons. All inmates need to have better material conditions, without the exchange of any favors or financial contributions.

Overcrowding in the District Prison in Belgrade, the Prison Hospital in Belgrade and several other prisons has a serious impact not only on the material conditions for everyday cell organization, but also on the opportunities to benefit from walks outside and to take part in meaningful activities. One daily hour of outdoor exercise is a minimum standard, and the IHF delegation recommends that measures be taken in order to guarantee this to all prisoners – both remand and sentenced – and in all facilities, including the investigation detention facilities.

One of the major problems in several of the visited institutions is that some cells, and most of the segregation and punishment cells, were conceived in a way that does not provide access to natural light and fresh air.

The regime of increased security in the juvenile prison, which is applied in some cells, does not allow the inmates to engage in any useful activities. As a result of this they can spend several months or even years without any satisfactory opportunities for exercise, except for a 30 minute daily walk, which is even less than is granted by the law (*LECS, Article 274*). Moreover, the lack of provision of a meaningful education for minors needs to be addressed more effectively. The inability of different governmental authorities to communicate with each other has greatly hampered this process in the past. An additional concern is the so-called “passing room,” where inmates are placed before having been proven guilty. They should not have to await their sentencing in a room resembling a punishment cell.

Medical services in the institutions of the Ministry of Justice should comply with the standards of the national health care system. It should be necessary for doctors and other medical staff to be under the supervision of the medical authorities only, in order to allow the fulfillment of their duties as medical professionals. The physicians should regularly visit the closed units and solitary confinements.

The state of repair of bathrooms and toilettes in the closed institutions in Serbia is of a low standard. Overall, the sanitary facilities in the prisons should be thoroughly renovated. The IHF delegation recommends that the authorities take appropriate measures to guarantee the access to running water in each cell. In addition to this, the inmates must be provided with everything necessary for the maintenance of their personal hygiene.

The IHF delegations noted on several occasions that the premises where food is prepared and served were dirty, which is unacceptable, and should be solved as soon as possible.

The control of inmates’ written correspondence with other persons and official institutions is restrictive and inappropriate. Letters containing complaints are given by detainees, without envelopes, to prison officers, and then transferred to courts. The content of complaint letters is easily accessible to prison personnel, which makes it extremely difficult for detainees to raise complaints.

Another matter of concern is the lack of external control over the prison institutions. Bodies independent of the Ministry of Justice should be established to monitor these.

Serbian authorities should help the institutions to find the financial resources to function properly.

In the **Ministry of Health facilities**, the IHF delegation observed that the Serbian system of involuntary treatment in a psychiatric hospital, both as established by law and as applied in practice, is a gross miscarriage of justice and a violation of international standards of personal freedom and due process. The law should call for a procedure to seek informed consent to treatment from involuntary patients, as well as an additional procedure to evaluate the capacity of a patient to give informed consent to treatment. Thereby, the procedure for civil commitment to a psychiatric institution for active treatment in Serbia and Montenegro would be brought in line with the international standards.

The delegation was shocked disturbed upon seeing that patients were restrained in front of the other patients. This should be avoided, and mechanical restraint should not be applied. When a patient is restrained, a record of restraint should be rigorously kept in a separate journal. Seclusion and restraint in psychiatric institutions should also be regulated by law. Specific law should regulate clinical drug regimes on mental patients.

All patients should be ensured at least one hour of daily outdoor exercise. Diverse activities should be offered to the patients, and measures should be taken for their deinstitutionalization.

In the **Ministry of Social Care facilities**, the IHF observed that the existing numbers of employed personnel is insufficient to provide adequate care to the residents. More professional personnel need to be employed. The residents might be living in good material conditions, but there seems to be no hope for their rehabilitation. The question of residents' pensions should be clarified, as it could lead to arbitrariness, risking a reduction of the residents' rights and welfare in the long run.

Introduction: Context and purpose of the visit

On 29 and 30 May 2005, representatives of the International Helsinki Federation for Human Rights (IHF) conducted a mission to monitor places of detention in the Republic of Serbia. The mission was the fifth under the project “Preventing Torture in the Closed Institutions of Central and Eastern Europe”, financed by the European Commission. The project has eight partner organisations from Eastern and Western European countries. The leading partner in this project is the Bulgarian Helsinki Committee. The organisations included (in alphabetical order):

Bulgarian Helsinki Committee (BHC)
Greek Helsinki Monitor (GHM)
Helsinki Committee for Human Rights in Serbia
Helsinki Committee for Human Rights in the Republic of Macedonia
Helsinki Foundation for Human Rights in Poland (HFPR)
Hungarian Helsinki Committee
International Helsinki Federation for Human Rights (IHF)
Moscow Helsinki Group (MHG)

The list of delegation members is enclosed in the appendix.

Six of the partner organisations work on monitoring places of detention in their own countries on a daily basis. Representatives of all organisations take part in monitoring the observance of human rights’ standards in the detention facilities in the countries of Eastern Europe.

The initial purpose of the mission was to monitor the detention facilities’ compliance with the human rights of persons placed involuntarily in state institutions. The delegation based its monitoring on the international standards for treatment of persons deprived of their liberty. In Serbia, the mission was focused on three types of institutions:

- a) Institutions for confinement of persons sentenced for criminal offences or detained on suspicion of having committed an offence and institution for juveniles sentenced for criminal offences under the authority of the Ministry of Justice;
- b) Institutions for involuntary psychiatric hospitalization for the purpose of active treatment of mentally ill under the authority of the Ministry of Health;
- c) Institutions for involuntary placement of persons with developmental disabilities for the purpose of social care under the authority of the Ministry of Social Care.

Institutions that the IHF delegation visited are:

- District Prison in Belgrade
- Prison Hospital in Belgrade
- Penitentiary Reformatory for Juveniles in Valjevo
- Penitentiary Reformatory in Požarevac
- Penitentiary Reformatory for Women in Požarevac
- Penitentiary Reformatory in Niš
- Psychiatric Hospital in Gornja Toponica
- Special Institution for Children and Juveniles with Intellectual Disabilities in Stannica

One of the major assumptions of the project partners is that the openness of the detention facilities to domestic and international scrutiny by the human rights NGOs and other civil society groups is a basic safeguard against ill treatment and other human rights violations. A number of international organisations recently came up with recommendations encouraging countries to allow visits by the human rights NGOs to places of detention.¹ *Article 6 of the UN Declaration on the Right and*

¹ Among them are the OSCE (Cf. *Supplementary Human Dimension Meeting on Prison Reform*, Vienna, 8-9 July 2002) and the African Commission on Human and Peoples’ Rights (Cf. *The Robben Island Guidelines*, October 2002).

Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms provides that “Everyone has the right, individually and in association with others: (...) to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems”.²

The old Serbian legislation on the execution of criminal sanctions did not provide explicitly for the possibility of human rights NGOs to carry out monitoring missions in places of detention. The Helsinki Committee for Human Rights in Serbia monitors all Serbian prisons regularly on the basis of an agreement with the Ministry of Justice. The Helsinki Committee for Human Rights in Serbia chose the most typical closed institutions in their country for the purpose of the visit of the IHF delegation.

During the mission, the IHF delegation put together three monitoring teams, comprising five persons in each, and visited eight institutions. These teams visited up to two facilities per day. The level of support provided by the relevant authorities varied, ranging from supportive in some facilities, to inadequate and hindering the delegation’s efforts to monitor in others.

During the visits to the closed institutions in Serbia, the delegations were not always able to conduct private interviews with the inmates without being closely supervised by the prison authorities. The prison directors and other staff members were often in the immediate vicinity of the inmates, which prevented an objective information-gathering. Although all visited institutions had been provided with and asked to fill out a general information questionnaire in advance, some of the institutions did not complete the questionnaire. One institution’s director refused to provide information altogether, while some others failed to provide the additional information they had initially promised, or claimed that they did not have some of the requested information.

The IHF delegation was, nevertheless, able to conduct meaningful research, and come up with a set of recommendations on the visited facilities and the system as a whole. The IHF will certainly appreciate the comments of the Serbian government, listed institutions and individuals in response to its findings and recommendations, and will be ready to follow up on them.

² General Assembly resolution 53/144.

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1. Ministry of Justice facilities

There are a total of twenty-eight institutions for the enforcement of institutional sanctions in the territory of the Republic of Serbia (excluding Kosovo). These include:

- one maximum-security institution (Požarevac-Zabela);
- two closed institutions (Niš and Sremska Mitrovica);
- four open institutions (Padinska Skela, Sombor, Ćuprija, and Šabac);
- one semi-open institution for women (Požarevac);
- one closed institution for juveniles (Valjevo)
- one closed hospital (Belgrade)
- one reformative-corrective institution for juveniles (Kruševac); and
- seventeen district prisons (Belgrade, Vranje, Zaječar, Zrenjanin, Kragujevac, Kraljevo, Kruševac, Leskovac, Negotin, Novi Pazar, Novi Sad, Pančevo, Prokuplje, Smederevo, Subotica, Užice and Čačak).

At the time of the delegation's visit, there were 8,180 inmates in the territory of the Republic of Serbia, which means that there were 109 prisoners per 100.000 inhabitants. At the end of May 2005, there were 1,800 untried prisoners and 6,380 sentenced prisoners, including persons sentenced to imprisonment for misdemeanor. There were 3 447 employees working in the prison service.

The prison budget in the Republic of Serbia for the year 2004 was 2.117,787,225 dinars, equal to 25.826.673 EUR. Almost 80% of the prison budget was spent on the salaries of employees in the prison service.

1.1. Background to the law and custody policy of the Ministry of Justice facilities

The domain of the enforcement of criminal sanctions is the exclusive prerogative of the republics. In the Republic of Serbia, it is normatively regulated by the *Law on the Execution of Criminal Sanctions* (LECS), the *Code of Criminal Procedure*, the *Criminal Code*, the *Decree on the Establishment of Institutions for the Enforcement of Institutional Sanctions in the Republic of Serbia*, the special *House Rules* for maximum security of closed prisons, open prisons, women's prisons, district prisons and detention facilities, and by subsidiary legislation.

The major legal act regulating the prison conditions is the *Law on the Execution of Criminal Sanctions* (LECS)³. At the time this report is published, the new LECS has been adopted and has been in force since 1 January 2006. A new Criminal Code and a Juvenile Justice Law are before Serbian Parliament and are waiting to be adopted in the same package.

Article 9 of the LECS states that '*The Administration for the enforcement of institutional sanctions (hereafter referred to as the Administration) organizes, conducts and supervises the enforcement of sentences of imprisonment imposed on adults and/or juveniles, the security measures associated with compulsory psychiatric treatment and custody in health institutions, the compulsory treatment of alcoholics and drug users, and committal to reformatories. (...) The Administration is an administrative agency of the Ministry of Justice of the Republic of Serbia*'. According to *Article 10* of the same law, the Administration is in charge of penal-correctional institutions [penitentiaries] and district prisons - for the enforcement of custodial sentences; penal-correctional institutions for women - for the enforcement of custodial sentences imposed on female adults and juveniles; penal-correctional institutions for juveniles - for the enforcement of custodial sentences imposed on juveniles; prison hospitals - for the treatment of convicted and detained persons; psychiatric institutions - for the enforcement of measures associated with compulsory psychiatric treatment and custody in a health institution and the compulsory treatment of alcoholics and drug users; reformative-correctional houses [reformatories] - for the enforcement of sentences of committal to a reformative-correctional house for corrective purposes; and institutions for personality testing of convicted persons.

³ *Law on the Execution of Criminal Sanctions*, promulgated *Official Gazette RS*, 16/97 1997

The rights and obligations of detainees are regulated by the LECS and the *Law on Criminal Code Procedure* (CCP). The rights of detainees include, among others:

A detainee should be provided the same conditions as a sentenced prisoner (*LECS, Article 314*).

For the work that a detainee performs during his stay in detention, he/she has the right for compensation plus all other rights connected to the performed work that are prescribed by the law (*LECS, Article 315*).

In the case of a detainee breaching the *House Rules* or committing any other act of disciplinary misbehaviour, the court under which jurisdiction the detainee's legal procedure is to be held should be immediately contacted (*LECS, Article 317*). The court must be contacted in case coercion has been used against the detainee (*LECS, Article 318*).

A detainee can be transferred from one prison into another (*LECS, Article 319*).

The LECS defines regulations for breaches of discipline in a detention facility. A prisoner who has breached discipline may be punished by reprimand, withdrawal of privileges, and solitary confinement. A prisoner is subject to reprimand if he/she has committed a minor offence or has breached rules for the first time since being admitted to prison. *Article 125* prescribes that a prison governor or his deputy shall conduct disciplinary proceedings. Within three days from the day of receiving a decision ordering solitary confinement as disciplinary punishment, a convicted person has the right to appeal against the decision. The appeal does not delay execution of the decision (*Article 127*).

A prisoner may be punished by up to 15 days in a solitary confinement, if his/her misdeed constitutes a serious offence or if he/she has been a habitual offender while in prison. In the case of concurrence of disciplinary offences, confinement in a solitary cell may be up to 30 days. Punishment by solitary confinement may be suspended. The law provides that total duration of such punishment can be up to six months over one calendar year. *Article 130* provides that "*the room, where the disciplinary penalty of referring to solitary confinement is executed, must have a size of at least 10 cubic meters, and it has to have natural light, it has to be equipped with sanitary facilities, drinking water, bed with bed linen, chair and table, and it must be heated*".

A prison governor or his deputy may, within forty-eight hours from the time of the receipt of the appeal, change or repeal the decision. If the prison governor or his deputy does not repeal or change the decision, the appeal shall be sent to the director of Administration within twenty-four hours. The director of Administration shall be obliged to issue a decision on the appeal within three days from the day of receiving it (*Article 128*). This decision cannot be subject to judicial review.

LECS prohibits the use of solitary confinement for the punishment of juveniles. According to *Article 271*, a juvenile may be sentenced to housing in a *special room* for one week (15 days in case of concurrence of disciplinary offences) because of breaches of discipline. This disciplinary measure prescribes that a juvenile is placed with two or three other offenders, as a juvenile must not be housed alone in a special room (*Article 273, Para. 1 and 2*). During his/her stay in the room, he has the right to read and learn (*Article 273*). *Article 275, Para. 1* of the LECS states that "*the punished person shall be visited by a doctor every day*".

The use of force (physical force, truncheon, instruments of restraint, etc.) is permitted in order to "*prevent an escape from an institution and during convoys, as well as for the purposes of preventing a physical attack, injuring, causing a material damage or surmounting a resistance of prisoners in relation to lawful order taken by an official*" (*Article 136*). Firearms can be used by a prison officer as an ultimate measure in order to "*protect a human life; reject a direct attack endangering his life; reject an attack on object being secured by him; prevent the escape of a prisoner from the institution of a closed type or from the closed division in an institution; prevent the escape of a remand prisoner during convoy if he has been charged for a criminal act carrying a penalty of 15 years or more*" (*Article 138*). The law prescribes that any use of means of force shall be registered, and that the officer

who applied them shall submit a detailed report to the prison governor. The report shall be forwarded afterwards to the director of Administration (*Article 140*).

The rights of the prisoners include, among others:

Article 58 provides that each sentenced prisoner is entitled to a minimum of 8 cubic meters of living space.

LECS provides for a minimum daily caloric value of the food, 12,500 joules (3,000 calories), which a sentenced prisoner is entitled to. This should be enough to cover the needs of a prisoner (*Article 61*). The caloric value of the food provided to juveniles should be 14,600 joules (*Article 257*).

A prisoner has the right to submit a complaint to the prison governor if her/his rights have been violated or other irregularities have been carried out during her/his stay in a prison. This complaint should be closely examined and result in a decision. A prisoner who does not receive an answer to his complaint, or is not satisfied with the decision, has the right to appeal in writing to a director of the Administration. In addition, the prisoner has a right to talk in private with the authorized person that is responsible for the monitoring (*Article 103*).

According to *Article 104*, prisoners are entitled to some privileges for good behaviour, and their regime may be changed to a lighter one. However, for instances of bad behaviour they can be transferred to a stricter regime. In both cases, the decision is made by the prison governor and cannot be a subject to judicial review.

The prisoners have the right to spend at least two hours daily out of the cell (*Article 59*).

The prisoners in closed units are entitled to one visit per month, those under semi-open regime to two monthly visits, while the prisoners accommodated in the open unit have the right to receive four visits each month (*Article 68*). The same applies to the reception of parcels (*Article 74*). All visits are restricted to one hour. Prisoners may receive extra visits as a privilege depending on their conduct. Prisoners have the right to receive visits by a spouse or children once in three months in special rooms of the prison (*Article 72*). A visit can last up to three hours.

LECS provides that the “*prisoners have right and obligation to work*” (*Article 76*) “*in accordance to their physical and psychological abilities, (...) as well as what is feasible for the prison*” (*Article 78*). *Article 83* provides that “*the compensation is 20% of the minimal market price of the work in the Republic of Serbia and overtime during extra hours after the full working hours, it is increased to 50% of minimal market price*”.

The prisoner have the right to receive an “*unrestricted amount of money*” (*Article 75*), but according to the *House Rules* it is prescribed how much money he/she can use for own purposes and how much money is put on his/her account.

The prisoners have the right to education that is organized in the prison premises (*Article 97*) According to the same law, a prisoner has the right to exercise his religion (*Article 100*).

The law does not envisage the obligation of a governor to receive a prisoner or to talk to him in person. Also, there is no deadline by which such a decision by the governor should be made or delivered to the prisoner. There is no judicial control over these decisions by prison Administration, and a prisoner who is dissatisfied with the answer from the director of Administration may need to initiate administrative dispute. The *House Rules* also specify that convicted persons have the right to legal aid in accordance with the law. This provision is only declaratory, because no formal obligation or system to provide legal aid is in place.

LECS does not provide a basis for the monitoring of the prisoners’ correspondence. It only states that a prisoner has unlimited right to correspondence (*Article 66*). Such an insufficiency of regulations

provides an opportunity for the routine monitoring of all correspondence. It also forces prisoners, usually those in a closed regime, to make their telephone calls only in the presence of a prison officer. Remand prisoners are subject to a stricter regime. They are not entitled to make phone calls. Court officers supervise their entire correspondence. Visits to untried prisoners are subject to the approval by presiding judges. According to the *Code of Criminal Procedure (CCP)*, the presiding judge decides whether or not a prisoner can receive a visit in the presence of a security guard (*CCP, Article 150*)

Article 63 of the CCP for the security measure of compulsory psychiatric treatment and confinement in a medical institution may be imposed on a mentally ill person who has committed a criminal offense in a state of complete or diminished mental capacity, provided that he represents a danger for his surroundings, and that such treatment is necessary in order to avert this danger.

A court at the first instance orders the measure of the compulsory psychiatric treatment and confinement in a medical institution (*CCP, Article 506*). The defendant may be summoned for trial, if his condition allows so, but with the presence of a psychiatrist from a medical institution, who is entrusted to testify on the defendant's mental capacity. The person concerned, his defense counsel and legal guardians may file an appeal against a verdict ordering treatment and confinement. The duration of this measure is not limited. Every nine months, the court, which imposed the security measure, must, by virtue of its office, review whether treatment and confinement in a medical institution is still necessary (*CCP, Article 510*). The mentally ill person, the medical institution and the guardian authority may also submit a motion for discontinuance of the measure.

A person against whom a security measure of compulsory psychiatric treatment and confinement in a medical institution is executed, has the same rights and obligations as a person who serves a prison sentence, as long as the requirements of treatment do not demand otherwise (*LECS, Article 191*).

The LECS envisions in *Article 346* that the Ministry of Justice, through authorized personnel, monitors the functioning of a correctional facility. The scope of inspection includes a supervision of the implementation of provisions and professional performance of employees in penitentiary institutions. However, the objectives, guidelines and working methods of inspection are not precisely defined by any law or sub-regulation. Furthermore, the law does not regulate the time periods during which the inspection in each prison must be conducted. There are also no specific requirements by the law regarding the qualification of the persons in charge of inspection.

At the end of 2002, the Council of Europe published a full-scale report on the compatibility of Yugoslav law with the requirements of the European Convention on Human Rights. In the document, the authors characterised the system of review of complaints by the inmates, subject to disciplinary procedures, as:

*"Not adequate and not in conformity with article 6 of the ECHR"*⁴

1.2. Visit to the District Prison in Belgrade

The IHF delegation visited the district prison in Belgrade on 30 May 2005. The duration of the visit was about 5 hours. The delegation spoke to the prison governor and was accompanied by the chief guard of the prison. They were also given the opportunity to speak to prisoners and had access to all facilities in and around the prison.

1.2.1. General Information

The Belgrade District Prison is the biggest prison for remand prisoners in Serbia. The prison was built in the 1950s, following architectural principles of the Soviet time.

⁴ "Compatibility of Yugoslav Law and Practice with the requirements of the ECHR", Council of Europe, December 2002.

Reconstruction work is under way. Some units of the prison have recently been renovated in order to improve material conditions. However, access to natural light and fresh air into the cells is still insufficient, because there are still no windows directed onto the outside. Windows are found only in the corridors. Only small glass openings had been made in the walls separating cells and the corridor, allowing some light through from the windows. There is also a need to repair and upgrade the heating system, dating from 50 years ago.

The official capacity of the institution is 450 detainees. At the time of the visit, there were a total of 769 remand prisoners, from which 741 were men, and 28 women. In addition, there were 50 sentenced prisoners. In other words, severe overcrowding was detected. A total of 7,960 detainees had circulated through the prison during the year 2004.

1.2.2. Categorization and segregation of inmates, and its purpose

Persons accused of the most serious crimes are detained in this institution. Individuals accused of involvement in organized crimes are detained here, as well as those accused of war crimes and of crimes related to the military service. There is a separate unit for juveniles, and another one for women.

Overcrowding, as stated above, is severe, making it extremely difficult to properly segregate inmates. It has a serious impact not only on the material conditions for everyday cell organization, but also on the opportunities to benefit from walks outside or to take part in meaningful activities. The deputy governor explained that the daily one hour walk provided by law could not be guaranteed, as the space for walks was limited, and the need to separate detainees during the walks in order to avoid contact made it impossible to have many in the courtyard at the same time. There were plans to create separation walls in the courtyard to allow for more detainees to go into it at the same time.

The difficulty of operating a fully functioning segregation system, for example by dividing up detainees accused of organized crimes, had resulted in more than a dozen of them having been placed in cells for solitary confinement, sometimes for long periods of time (up to four years). Although the permission of the court needs to be sought to legitimate such placement, visits to such cells revealed that they were highly inappropriate in their function as prison cells over longer periods of time.

Given the frequent transport of detainees to and from Courts, the risk of escape is very high. There were plans to tighten security.

1.2.3. Material conditions and hygiene

According to legal provisions (*LECS, Article 58*), the binding norm for space per prisoner is 8 cubic meters. But the prison is overcrowded, and such a norm applies only in theory.

1.2.3.1. Renovated cells

A section of the prison currently accommodating inmates accused of participation in organized crime, had newly been renovated.

In this section, cells measured approximately nine square meters. These contained two sets of bunk beds meant to potentially accommodate four inmates. Only up to three of the beds were occupied in any of these cells.

Each room had a separate bathroom, with a shower and a sink. The conditions in this area of the prison were acceptable.

A second renovated section had bigger cells, with four pairs of bunk beds. But until the day of the visit, there had never been more than four inmates in any of these cells, with the upper beds having been left empty. The cells measured about twelve square meters in size.

1.2.3.2. Dormitories for pre-trial detainees

These sections with large cells for male detainees had not been renovated since the year of construction of the prison, and represented unquestionably the worst part of the institution.

The first cell had 12 beds, all of which were occupied. There were obvious problems with ventilation here. All detainees had removed their T-shirts and put them back only for the period the delegation visited the cell.

Inmates eat in the cells, but there was no appropriate furniture for this purpose. Furniture was in a terribly bad state of repair, rotten and dirty.

According to detainees, hot water is not provided. The only exceptions to this are for cases of illness.

The half-hour daily walks (on weekdays only) take place at 07:00 a.m. for inmates in these cells. They complained about this early hour, and would prefer another time, even if only one hour later.

1.2.3.3 Cells for solitary confinement, used as normal cells

A large section of the institution contained cells designed for solitary confinement. These were single cells, presently occupied by detainees placed under solitary confinement on a voluntary basis. One of these explained that it felt better for him to be isolated in such a cell than to be placed in a common cell which during the summer would be unbearably hot. Another had chosen to be isolated in this way in order to avoid the difficult cohabitation with other inmates in the bigger, overcrowded cells. One visited inmate was from Kosovo.

But as described above, these cells built and conceived for solitary confinement for a short period of time are also being used as normal cells in cases of overcrowding and need of segregation, which is an unbearable situation. The deputy governor explained that there were plans to transform some 80 of these into larger cells by removing walls, but until this is started and completed, detainees are living there under inhuman conditions.

The opportunities for human contact for prisoners detained in cells for solitary confinement were extremely limited. They were allowed to have a 30-minute walk every day, with the exception of weekends when no walk was available. They were entitled to two family visits per month. They were given no other opportunities to leave their cells. There were no chances of taking part in common activities. For prisoners spending months or even years under such conditions, the high degree of isolation and restricted human contact will undoubtedly have very serious negative psychological and physical repercussions.

A solitary cell measures around four square meters. There is a toilet inside, but no separating wall. In the cells visited, there was a strong smell.

The cells have little light. The only access to some light was through an opening of around 1 square meter, secured with grillage, on the wall facing the the corridor. Cells are therefore extremely dark.

1.2.3.4. Ward for women

Six women were accommodated in a cell of about nine square meters.

According to women imprisoned in a separate unit for female prisoners, they too had half an hour daily for outside walking except for weekends. The unit had been renovated. There were, however, no windows directed outwards in the cells, and access to natural light was limited. According to the women, it gets cold in the cells during winter and extremely hot during summer, when ventilation has worked only from time to time.

In the cells, there were sanitary units partitioned from the rest of the living space, containing a shower and a toilet of an "Asian type". Once a month the women receive toilet articles. According to inmates,

access to a doctor is provided when needed, as well as the opportunity to consult a gynecologist working in the military hospital. Some women complained about the high prices in the canteen.

There was no room for common activities anywhere in the entire unit for women. They spend almost all of their time locked in cells.

1.2.3.5. Ward for juveniles

In one of the cells for juveniles, measuring approximately seven square meters, there were three inmates aged between 16 and 17. It was very hot in the cell. The furniture was in a poor condition as was the toilet, which was separated from the rest of the cell. The juveniles told that they were allowed to walk only 15-20 minutes per day except for weekends, when they were locked in the cells all day. They were allowed to have two family visits per month. No participation in purposeful common activities was possible. One of the juveniles had been detained for 8 months.

The juveniles complained about the insufficient food provision. They receive 600 gram of bread, but would need more. They seemed to very seldom receive fruits.

The denied provision of walks during weekends as well as the general lack of opportunity to take part in education, sport or other purposeful activities can have particularly serious negative effects on juveniles, both psychologically and physically. At the same time, juveniles are prevented from getting cigarettes as a measure to “protect their health”.

1.2.3.5. Ward for sentenced prisoners

Sentenced prisoners are accommodated in a section which has access to an open yard leading to the prison kitchen. The cells looked more like crowded dormitory apartments furnished with outdated furniture. They sleep in bunk beds. Twelve prisoners were accommodated in the cell visited.

1.2.3.6. Bathing

While conditions in renovated cells are satisfactory, these remain the exception, with the rest of the building offering shower facilities dating from 50 years ago, and in a deplorable state of repair.

In the ward for men, there were only three showers at the end of the corridor, for a whole section comprising cells accommodating up to 100 detainees.

Inmates can take a shower twice a week.

Sheets are changed every two weeks.

1.2.4. Nutrition

The quality of food was reported to have improved recently. There are two professional cooks employed in the kitchen. Additionally, six prisoners are helping them to prepare meals.

According to the law, the daily food allowance should be 12,000 kJ, which is approximately 3000 calories (*LECS, Article 61*).

Breakfast is served at 06:00 a.m., except for weekends, when it takes place at 07:00 a.m. The last meal is served at 06:00 p.m. Nothing is served after this.

The kitchen is situated in a basement. While it is relatively adequately equipped to prepare meals for the high number of detainees, the general state of repair of the room is left to be desired. The walls and the floor of the kitchen are not in proper sanitary condition, and a solution has not been found yet by the current prison administration to remedy this situation.

Personnel working in the kitchen reported that the inmates receive fruits twice a week. When asked about juveniles, it was said that they get more bread. Cookies are served on occasions such as holidays.

From all the adult inmates interviewed, no one complained about the quality or quantity of food.

1.2.5. Medical care

Medical services consist of three general practitioners working on a full time basis, and six nurses. Once a week, a surgeon is available for prisoners. The medical staff in the prison cooperates with the Prison Hospital situated within the same premises.

The medical doctors are employed by the Ministry of Justice. They are not integrated into the Ministry of Health, which is an anomaly that should be corrected in Serbian places of detention in general.

Upon admission, every inmate undergoes a medical examination. All relevant information is entered in a medical file.

According to the doctor met during the visit, prisoners have no problem with access to medical care. All injuries that could be explained by the use of excessive force against a detainee and revealed by medical staff during an examination are recorded. The records are confidential and could be used as evidence only at the request of the prisoner concerned. According to the doctor the medical ward receives about 60-70 patients daily. He reported that for last two years no prisoner had been ill-treated in the prison. The delegation was suspicious of such data. When asked about the procedure in cases where there are suspicions of ill-treatment, the doctor explained that he entered the information on the computer, but that he sent it only if a victim of ill-treatment asked for the lodging of a complaint. Otherwise he would not follow it up.

There had been very few cases of injuries inflicted by other inmates, except for some case of burns.

The deputy governor reported problems of self-mutilation and suicide attempts. One detainee had tried to poison himself four or five times. The problem of self-mutilation was high among drug users. There is a "special council" to deal with drug use but the deputy governor said they were waiting for a national strategy.

Detainees suffering from hepatitis C, hepatitis A, and HIV are segregated.

1.2.6. Work in the prison

There are no possibilities for remand prisoners to work.

The convicted prisoners serving their sentence in the Belgrade District Prison work there, helping out in the kitchen, the garage and carrying out cleaning tasks and other similar duties.

They are paid around 10-15€ per month for their work.

1.2.7. Discipline, punishment and isolation

Discipline by placement in punishment cells is mostly not used. Inmates behaving badly may be sent to another detention facility, with more severe conditions according to the deputy governor.

Once, a remand prisoner had been placed for two weeks in a punishment cell, which had been a punishment ordered by the Court.

1.2.8. Contacts with the outside world

1.2.8.1. Correspondence

The correspondence of untried prisoners is supervised by court officers (*LECS, Article 150 Para. 3*). The LECS does not provide for any provisions related to confidentiality of complaints. In practice all correspondence of prisoners - private or official, including letters containing complaints, is given by detainees without envelopes to prison officers, and then the correspondence of untried prisoners is transferred to courts. The content of complaint letters is easily accessible to prison personnel, which makes the right of prisoners to bring complaints to a large extent illusory. Another matter of concern is the lack of external control over prison institutions. Bodies independent of the Ministry of Justice should be established to supervise prison establishments.

It should be added that there are no legal provisions regulating the confidentiality of the correspondence of prisoners with their lawyers. In practice, prisoners in the Belgrade District Prison maintain only personal contact with their lawyers. There are separate rooms designated for meetings between detainees and their lawyers, in which detainees can talk to lawyers confidentially, in the absence of others. But this should not preclude the right to maintain confidential correspondence with one's lawyer. The lack of opportunity to do so may in practice restrict the right to defense in penal proceedings as well as the right to file complaints relating to prison conditions.

1.2.8.2. Parcels

Prisoners are entitled to receive two parcels with food per month. Prisoners and their family members are informed of the kind of food that parcels can contain. There are no legal provisions concerning the maximum weight of a parcel. With the consent of the governor an additional parcel with food is possible as a privilege. According to prison officers in charge of receiving parcels, in May 2005 about 40 prisoners were allowed to receive lunch from home on a daily basis. Prisoners having no family members or no contact with them, receive one packet of cigarettes per week. Necessary sanitary articles (soap, toilet paper, toothpaste) could be bought by prisoners or they are provided by prison administration.

1.2.8.3. Visits

Courts decide on the regime of visits. During visits, the inmate talks with the visitor through a plexi-glass. Visits last 15 minutes, but can be prolonged if the detainee is behaving well and is peaceful. It is possible that a remand prisoner would not be allowed any visit if the Court so decides.

1.2.8.4. Rooms for meetings with lawyers

There were four rooms for meeting with lawyers, one of them divided in two. The rooms were appropriate for private meetings out of hearing reach from the guards. There was only one lawyer present at the time of visit.

1.2.9. Activities

Most prisoners spend almost all time locked in their cells. They are entitled to a one-hour outside walk every day, but in practice they have only the chance to walk for 30 minutes on weekdays. On weekends, no walks are possible, and detainees spend all their time locked in their cells. This situation is absolutely intolerable, and must be remedied as a top priority.

Except for a small number of sentenced prisoners, all others have no possibility to take part in any purposeful activity outside of their cells. They are allowed to have radio (transistors) in their cells and can buy newspapers or receive them from their families. It was explained that it was not possible to install TV-sets because of a technical problem: Apparently, the plugs were not adapted for TV sets.

There is no library within the prison. According to law, detainees should be entitled to two books per fifteen days, which families can in principle provide, but this is seldom practiced.

Such a regime, based on isolation of prisoners in their cells almost all the time, is quite unacceptable and is particularly damaging for juveniles (see section below).

1.2.9.1. "Educational center"

The mission team also visited an educational center designed for adults sentenced by courts. The center employed a psychologist and an educator "*in order to make diagnosis of problems underlying the criminal behavior of prisoners*". They reported to be "*observing the abnormal behavior of the individuals*". They also claimed to organize sport and cultural activities for sentenced prisoners. They referred to the existence of some discussion groups for drug addicts, but this was all vague. In reality not much was going on. The psychologist had worked there only for a short period, and it is hoped that with time a real program will be put into practice.

1.2.10. Religious services

Ninety-nine (99) 99 percent of the prison population are Orthodox Christians. There is one chapel in the building. A regular cooperation exists with an orthodox priest. Detainees with other religious beliefs need to make a request if they want meet with a representative of their religious community. The delegation gained the impression that this opportunity was not often resorted to.

1.2.11. Working conditions for guards

According to the deputy governor, as of 30 May 2005 there were 230 people employed in the prison, including 180 persons employed as prison guards. It was explained that daily up to 60 untried prisoners had to be transferred to courts situated in different locations, this requiring a lot of staff involvement. The number of prison staff as compared to the number of inmates appeared to be highly inadequate given the fact that a large number of prison guards were involved on a daily basis in the transporting of untried prisoners from the prison to courts.

Families of prison guards are accommodated in the prison, in a ward reserved only for them.

1.2.12. Complaint procedures

The procedure for lodging complaints is a matter of a great concern. Prisoners are entitled to submit complaints concerning the violation of their rights to the prison governor (*LECS, Article 103, Para. 1*). They are also entitled to bring a complaint against the decision of the prison governor to the Director of Administration (*LECS, Article 103, Para. 3*), who is the chief of the administrative agency responsible for prison establishments subordinated to the Ministry of Justice. There is, however, no judicial control over the decisions of the governor. Neither is any judicial appeal against a decision of the prison administration available.

It was reported that 90 percent of the complaints are about the slow pace of court procedures.

1.2.13. Inspections

In September 2004, the CPT visited the Belgrade District Prison. The report has not yet been made public.

Two visits have also recently been made by the International Red Cross.

There is some supervision from the Ministry of Justice, but not from any other independent bodies. Only every second week (on Fridays), judges come to the prison.

1.3. Visit to the Correctional Penal Facility, "Prison Hospital", Belgrade

The IHF delegation visited the Prison Hospital in Belgrade on 30 May 2005. The visit started at 02:30 p.m. The delegation was received by the governor of the Prison Hospital, who is a practitioner himself, specialized in ophthalmology. He had been working in the hospital for 25 years. He was appointed to his present position in 2003.

1.3.1. General Information

The Prison Hospital (further on: hospital) and the district remand prison are placed in a same building, whereas the hospital is placed on the fourth and fifth floor of the building and it measures about 17000 square meters. The building, housing both institutions, was built in 1958 by a Russian architect. This is the only prison hospital in the whole country and it is under the jurisdiction of the Ministry of Justice. It used to be the only hospital in the former Social Federal Republic of Yugoslavia.

Since 1958, 17000 patients have been registered in the hospital. Only twice patients have returned for treatment in the hospital after they were released from the institution.

The delegation did not receive a clear answer about the hospital's budget, but was told that the institution receives around eight million dinars per year for its equipment.

The institution is obliged under the LECS to submit reports on the state of health of patients who are sentenced to mandatory psychiatric treatment under detention and for those receiving obligatory treatment for alcoholism and drug abuse, to relevant courts. The reports on patients sentenced to mandatory psychiatric treatment must be submitted at least once a year, while the reports on prisoners sentenced to obligatory treatment must be submitted once every six months.

The administration of the institution regularly submits reports to relevant courts and recommends either further detention, transfer to a regular hospital, cessation of treatment, or transfer to prisons for the individuals whose treatment for alcoholism or drug addition has ended.

1.3.2. Categorization and segregation of inmates, and its purpose

The capacity of the hospital is for some 400 patients, but at the time of the delegation's visit they had 489 patients. According to the governor, the hospital's staff would be capable of taking care of even up to 500-600 patients.

On the day of the delegation's visit, there were 428 sentenced prisoners (four women, one juvenile and 423 men) and 61 detained inmates (two women, two juveniles and 57 men) in the hospital. In each ward untried and convicted prisoners were separated.

There are seven departments in the hospital: For acute somatic diseases (internal medicine ward with 35 patients), for mental disorders (two psychiatric wards with 248 patients), for alcoholism (58 patients), for drug abuse (104 patients), for acute psychic illnesses (neuropsychiatric ward) and for patients under psychiatric observance.

Most patients (250) are placed in the psychiatric department (further on: psychiatry). There is no time limit for holding a patient here. The same principle is applied for drug addicts and alcoholics.

In 2004 and 2005 several cases of death had been registered. The delegation was told that most deaths were either age-related or caused by somatic diseases. The last self-inflicted injury was recorded two years ago.

1.3.3. Material conditions and hygiene

Material conditions in the hospital were extremely bad. The most common problems in the hospital are: A lacking access to natural light and heating in patients' rooms and low level of cleanliness in the whole hospital.

Each ward of the hospital measures about 900 square meters. The entrances to the wards are locked with bars and are supervised by one or two guards. On each floor the guards have a sentry-box in a corridor that connects the wards.

The majority of the rooms are of about twenty square meters. Most of them are without windows and have almost no access to natural light and fresh air. Natural light and fresh air are available only in the long corridors that connect the rooms, but only to a certain extent, as most of the windows are dirty and malfunctioning. The delegation was informed that it is extremely cold in winter and very hot in summer, particularly on the fifth floor, which is situated directly under the roof. Dormitories are not locked during the day. Therefore patients can walk along the corridors and spend time in a TV room.

The delegation first inspected the roentgen room, which is equipped with very old devices of which use is restricted. Moreover, patients and staff members are poorly protected from radiation. Equipment in the room for ophthalmologic check-up is old as well, but the room is tidy and well-maintained.

1.3.3.1. Female ward at the psychiatric department

The delegation first visited the female ward of the psychiatry. One of its two wings had been renovated, and all female patients had therefore been placed in one wing, which had resulted in considerable overcrowding. The governor said he was expecting that the renovation work should finish soon, but this did not seem very probable.

The corridors, along which the five rooms are laid out, are locked by an iron grid and guarded by one or two guards at the entrance of each ward.

The walls in the corridors and rooms are decorated with pictures and posters. There is no heating in the rooms, and only small and narrow heating bodies situated along the corridor. The windows are so dirty that it seems they have not been washed for a very long time. The only bathroom is run down and dirty, with old and dripping faucets, toilets and showers, while the smell of urine spreads out from the bathroom and into the whole corridor.

Fifty women are placed in five rooms along the corridor. Rooms are overcrowded and contain many bunk beds. Three rooms are very dark with almost no access of natural light, while two rooms have sufficient access to natural light. The electric lighting is insufficient for reading. Patients complained that during the summer it had been too hot in the rooms. Like almost all rooms in the hospital, those in the women's psychiatric ward have low ceilings.

The delegation was told that the majority of women suffered from schizophrenia. The delegation has some reservations about this statement. According to the governor, most of them had murdered either a husband or own child.

1.3.3.2. Male ward at the psychiatric department

There are four wards for men in the psychiatric department. One ward was being renovated as well and therefore all male patients had been placed into the other three wards. However, it seemed that there had been a constant overcrowding in this department.

Many men the delegation met with were under the influence of sedatives and seemed to be in an absent state in contrast to the women, who were vivid and responsive, despite their medications.

Two toilets and three showers in the bathroom of the ward were not functioning properly. The smell of urine coming from the bathroom was even stronger than in the women's ward.

Rooms in the male ward are of the same size as in the female ward, and there is almost no uncovered space in them. The rooms are very dark and there is no access to natural light. Electric light is scarce, as 50% of the electric light sources are out of order. There is no ventilation in the rooms, and the only heating is provided by heating bodies located along the corridor. There is almost no decoration in the rooms. Pillows, sheets and blankets are in very bad condition, which is of serious concern, as many patients spend almost the entire day in their beds. There are also many bunk beds, which are very dangerous, as the patients may fall and hurt themselves. The level of noise in the rooms is not very high. Except for beds and lockers, there is no other furniture in the rooms. Walls in the rooms and in the corridors should be repainted, as they are very dirty and have not been painted for a very long time. The inmates wear their own clothing, which is dirty and worn out.

Every section of the male ward has a small living room with one or two run-down tables, several chairs, and a malfunctioning TV set. The only difference between the living rooms is that some of them have good access to natural light, and some of them do not.

Like in the female ward, the governor stated that most of men in the hospital were suffering from schizophrenia.

1.3.3.3. Ward for drug addicts and alcoholics

Compared to the psychiatric department, the situation in the department for drug addicts and alcoholics is much better. The rooms and corridors are cleaner, although the walls and furniture (especially beds) are in bad state of repair. Patients wear their own clothes. The walls in the rooms are decorated with posters and graffiti. Both the natural and the artificial light are insufficient for reading.

Once a week, patients in these departments organize social events, during which they play music and dance.

1.3.3.4. Ward for internal medicine

This department is in a better state of repair, although it is very scarcely equipped, and the equipment is outdated. The doctors in this department do not have sufficient equipment to conduct their work properly. There is an electrocardiograph, a sterilizer and cupboards for medicines. The department is clean and has sufficient access to artificial light.

This ward treats patients with cardiovascular, kidney, lung and endocrine problems. The ward has no intensive care unit *per se*, but the room that is closest to the entrance of the ward sometimes acts as the intensive care.

1.3.3.5. Female ward for internal medicine

The ward was very crowded because of renovations which had been carried out in other wards. The hospital governor said that the renovations should be finished in June 2005. After the delegation visited the unit under construction, it has some reservations that the construction works will finish in the time frame suggested by the governor.

There are six bunk-beds in each room. Even though it was very hot at the time of the delegation's visit, women complained that they were forced to keep the windows closed, which prevented air circulation. Women also complained that they did not have enough cleaning products to keep the cells clean.

1.3.3.6. Male ward for internal medicine

The cells of the ward were extremely crowded and dirty. The furniture was in an awful state of repair, almost rotten. Mattresses on some beds were extremely thin and the sheets were dirty. The smell of urine was extreme. This unit is in a much worse state of repair than the ward for drug addicts and alcoholics.

The number of showers is insufficient and they are in bad condition. Since there is no place to put dry clothes, the team witnessed a naked old man dressing in the corridor after taking shower.

The occupational activity room does not have much to offer, and the delegation was told that the TV-set was not functioning properly.

The overall state of repair of the building is terrible. The majority of it has not been renovated for the last 35 years. The corridor windows were so extremely dirty that the light could hardly pass through them. The governor explained that nobody wants to work as cleaning personnel in the hospital, as the salary is only 150 Euro. This is why patients do not only have to take care of their personal clothes but also have to clean their cells. The director asserted that such practice is in accordance with law and referred to the *Article 60* of the *LECS*. Four cleaning women take care of the administrative offices, but the governor hoped that with the permission of the Ministry of Justice, the hospital will be able to employ 15 cleaning women in the future.

1.3.4. Medical care

Among the registered patients, two patients had AIDS, 60% of the patients had tested positive for Hepatitis C, and two or three patients had suffered from acute Hepatitis C. Cases requiring long-term treatment are sent to the clinical centers in Belgrade. The patients suffering from AIDS are not separated from other patients. However, their fellow patients who are in regular contact with them are informed about preventive measures to be taken and the nature of this transmittable disease.

The governor informed that after the visit of the Committee for Prevention of Torture (CPT) in September 2004 the hospital has become an important issue for the governmental authorities and therefore they had no problems supplying the institution with medications. Some medications are procured at free market at the institution's expense, while the rest are obtained as humanitarian aid.

The hospital used to have a surgical ward which had been closed, as there were no practitioners willing to work in the hospital.

The institution works round the clock and admits patients at any time. All medical officers work in two shifts. One doctor and one nurse are on duty on weekends, while six nurses are on duty at night. At the time of the delegation's visit, there was only one doctor on duty. Besides being responsible for the whole hospital, he was receiving new patients coming from all around Serbia. The practitioner's office was in very bad condition and sparsely furnished. The doctor had only a typewriter on which to enter information on the newly arrived patients. The doctor informed that he was obligated to enter all information about the newly arrived patients, including eventual abuses. Entries on abuses of patients stay in the file. If necessary, it can be inspected by a team of specialists gathered for consultation on the patient's state of health. The doctor complained that the staff members' salaries were very low and that they do not motivate people to work.

Only routine urine and blood tests can be performed in the rather poorly equipped biochemical laboratory. For more sophisticated testing, samples are sent to laboratories of civilian hospitals.

1.3.5. Nutrition

Even though the governor informed that the food had improved since the last visit of the Helsinki Committee for Human Rights in Serbia, it did not seem to be of a high quality. According to the interviewed patients, their meals are better than before, even though milk products, fresh fruits and vegetables are still not on their menus.

The Prison Hospital employs a professional cook, who also takes care of the dietary requirements. Furthermore, the prison administration has secured a new refrigerator and some basic kitchen utensils.

1.3.6. Work

Only patients in the department for drug addicts and alcoholics are allowed to work. They assist in the hospital's kitchen, or get engaged in loading, unloading and cleaning the rooms. Such work is voluntary. Working patients can choose their workplaces and are entitled to a symbolic remuneration. They also often have small group sessions with a therapist.

In the psychiatric department, there is a work room where female patients are given the opportunity to engage in some forms of creative work like for example knitting.

1.3.7. Contact with the outside world

Daily walks in fresh air are provided as an obligatory recreational activity, but because of the overcrowding, patients are restricted to 15-20 minutes walks only. Group trips to the city are occasionally organized for patients whose state of health allows for it. On such occasions, they are accompanied either by a therapist or family members. Since recently, the governor has allowed that family members can take patients out of the hospital for a few hours, or even take them home on weekends. However, more home leave is only allowed to patients who return back to the hospital after their first leave. To receive a home leave in the first place, a patient has to prove his willingness to cooperate. After granting a patient a home leave, the hospital's administration observes how he/she adapts to being away from the hospital. This observation is thought of as an important factor in evaluating whether a patient would be ready to leave the hospital permanently when the time for his/her release arrives.

The governor said that patients can make telephone calls, receive visits and have unlimited correspondence. On every floor there is one phone booth. The length of conversation allowed for depends on the treatment proscribed for the patient, but is not less than two 15 minute calls per month. The phone conversations are not supervised by the hospital staff. Even though the correspondence is meant to be unrestricted, letters written by the patients are censored. Letters written by psychotic patients are not sent at all.

Patients are allowed to receive packages. Special attention is paid to packages sent to patients, however, because of the chances of them containing drugs.

There is no special room where patients can spend three hours with a spouse or children, as prescribed by the LECS, *Article 72*.

Before releasing a prisoner from the hospital, the medical institution is obliged to inform the first instance court about the condition of the patient (*LECS, Article 2004, Para. 2*). Also, if the medical institution believes that the treatment should be prolonged, they must send their opinion to the court (*LECS, Article 199*).

For patients not sentenced yet, educational services are not available.

1.3.8. Discipline, punishment and isolation

The hospital is obliged to keep a record on every patient who has been restrained, and to enter the duration of his/her restraint. The staff visits the restrained patients every few hours. Patients are tied to their beds only on the doctor's order. Once they are sedated, instruments of restraint are immediately removed. Patients are not given electric shock treatment. The delegation visited one of the isolation rooms located in the department for internal medicine where three aggressive patients were placed. All of them were tied with leather belts, but one of them had also been tied with additional belts. According to the hospital staff, he had been very aggressive upon his arrival. Besides having attacked the medical staff, he had tried to hurt himself. The record showed that he had been kept constantly restrained since his arrival to the hospital on 25 May 2005.

According to the information the delegation received, the patients do not complain against the administration's decisions. However, the majority of patients are under the influence of strong medications.

1.3.9. Use of force and arms

According to the hospital's governor there had been no cases of use of force and arms.

1.3.10. Staff

There are about 300 members of staff in the hospital. These consist of about 100 guards, 35 doctors, 80 nurses and 18 educators, while the rest are employed in other services like i.e. social work and occupational therapy for drug addicts and alcoholics.

The personnel employed on a permanent basis may also attend courses on service-training in some other institutions, as well as seminars organized at home or abroad.

There are also 10 practitioners (professors from the Belgrade Medical Faculty) in the hospital, who cooperate with the hospital upon request. It is cheaper to invite the so-called consultants to the Prison Hospital than to send the patients to other hospitals. Among consultants who come to the hospital are: otorhynolaryngologists, surgeons, neurologists, pneumo-physiologists, urologists and specialists on infectious diseases. However, in urgent cases the patients are brought to civil hospitals by the hospital's ambulance car.

The governor had been trying to employ young guards, as the older guards have usually previously worked in prisons and often do not exhibit the appropriate conduct towards the patients. However, he had discovered that it was very difficult to find replacements for the old guards, as young people most often do not want to work in institutions like the Prison Hospital.

1.3.11. Inspections

The Helsinki Committee for Human Rights in Serbia has visited the Prison Hospital several times. The CPT visited the hospital in September 2004. Both organizations left their recommendations and remarks. The hospital's management hopes that this is a first step to improve the living conditions in this institution.

1.4. Visit to the Penitentiary Reformatory for Juveniles in Valjevo

The IHF delegation visited the Penitentiary-Reformatory for Juveniles in Valjevo on 31 May 2005. The visit started at 09.30 a.m. The delegation was received by the prison governor and the chief-educator.

1.4.1. General information

The entire institution consists of 10 buildings, spread over an area of 9 ha. The prison consists of the following units: An administration unit, an admission unit, an increased security unit, dormitories for different groups of inmates, a kitchen and a dining room, a visit room, an ambulatory, and a cultural center, containing school and different workshops. The capacity of the prison is estimated to about 250 prisoners.

The prison was built in 1965, and is surrounded by 1,200 meters of wall and some 60 watch-houses. Some parts of the prison have been renovated recently, particularly those parts destroyed during a flood in 2001. There is, however, a need to renovate other parts of the institution. According to the prison governor, three renovation projects had been prepared, but the prison administration was still waiting for the funding.

The prison governor has a degree in law and special pedagogic. He used to be a police officer, and has kept the present position since the end of 2004. The chief-educator has kept his position for several years. He is responsible for the resocialization work with the prisoners.

1.4.2. Categorization and segregation of inmates, and its purpose

There were 181 prisoners at the day of the delegation's visit to the reformatory: 24 detainees on remand and 157 sentenced prisoners.

Even though the institution had been conceived for juveniles, only four inmates were under the age of 18. Most inmates (121) were between the ages of 18 and 23. According to the prison governor, the youngest prisoner was 17 years of age, while the oldest was 27. The reason for this broad age difference is that there are two categories of prisoners serving their prison terms:

Juveniles sentenced for offences committed before the age of 18 and young adults sentenced for offences committed between the age of 18 and 23.

The majority of the sentenced prisoners are Serbs (127), but there are also 14 Roma, seven Muslims, two Montenegrins, one Hungarian, three Rumanians, two Bulgarians and one Yugoslav prisoner.

Most prisoners (98) had been sentenced for robberies, armed robberies or burglaries. 30 prisoners had committed murder or caused heavy bodily injury. There were also seven perpetrators of sexual related offences, 12 traffic offenders and nine persons sentenced for drug dealing.

Prisoners on remand were under a closed regime, as were most of the sentenced prisoners (137) in the institution. 17 sentenced prisoners were under a semi-open regime, while three prisoners were under an open regime.

A program for each prisoner is prepared on the basis of the committed offence, the length of the punishment, previous convictions and the psychological profile of the inmate. The prison's psychologist, pedagogue and sociologist prepare a classification of every newly arrived prisoner. The prison governor has the final word about the inmates' program. As a rule, prisoners are not actively involved in preparing such programs.

Each prisoner starts to serve the penalty under a closed regime. Only the prisoners who did not commit serious offenses (like car accidents) can be placed under semi-open regime at the beginning of their term.

The chief-educator informed the delegation that individual programs could be changed according to the circumstances. The prison administration continuously conducts evaluations of inmates and can therefore re-classify them from one group into another. During their stay in the prison, prisoners can be transferred from the closed to semi-open or open regime or the other way around. The prison also has a unit of increased security. This unit has a high level of isolation. The prison governor has the final word, and no complaints against his decisions can be submitted to the court.

On general, the provisions prescribed for adult sentenced prisoners govern the execution of sentences imposed on juveniles. There are only a few special provisions related to juveniles. The Serbian Parliament has been working on a law which will regulate matters concerning the execution of sentences against juveniles. At the time of the delegation's visit, there were no house rules in the prison because of unclear legal framework.

1.4.3. Material conditions and hygiene

1.4.3.1. Admission ward

Newly arrived prisoners are placed in the admission unit. They stay there up to thirty days. During this period, they are subjected to medical examination and a classification process. Inmates sleep in two dormitories that are big and spacious. Every inmate has a bed 30 centimeters above the floor, a pillow,

a sheet and a blanket. The admission unit has a living room with a TV set. The rooms have large windows, with good access to natural light and good possibilities for ventilation. The unit has a bathroom with toilettes, taps and showers that are in a rather bad state of repair. Two times per week, prisoners from the admission unit can participate in sport activities, but separately from other prisoners.

1.4.3.2. Increased Security ward

Valjevo prison has a special increased security unit. There were 15 prisoners placed in these cells of increased security, during the delegation's visit. These cells are designed mainly for highly disobedient prisoners, e.g. ones involved in the prison sub-culture or ones who have tried to escape. The material conditions in the cells are acceptable, but the regime results in a high level of isolation.

The unit has three types of cells: solitary confinement cells for adult prisoners, special cells for juveniles (so-called "special rooms") and cells for prisoners under a strict regime (increased supervision regime).

According to *Article 219* of the LECS it is prohibited to use solitary confinement for juveniles. Therefore, a juvenile who serves a punishment in the increased security unit must be placed in a room with another juvenile or an adult on whom the disciplinary penalty of placing in an isolation cell has been imposed (*LECS, Article 273*). A juvenile cannot stay in the special room longer than 15 days (*LECS, Article 271, Para. 1*). After leaving the special room he is not entitled to use any of the privileges for 15 days (*LECS, Article 271, Para. 2*).

The delegation visited one of the "special rooms". This room was narrow and provided with two beds, a table and a chair. The cell had insufficient access to natural light because the windows were small and placed very high. Toilets of the Asian type were separated from the rest of the cell.

Adult inmates may be punished by solitary confinement in an isolation cell for up to 15 days, while in the case of disciplinary offences they can stay there for up to 30 days.

A matter of a great concern is that inmates who are under the so-called increased supervision regime are not allowed to participate in education, vocational training, work or sport activities. They are entitled to have a 30-minute walk every day from Monday to Friday. The area where they can walk is rather small. During the weekends no walk is possible at all, so they spend 24 hours locked in their cells, provided that they receive no family visits. Prisoners whom the delegation met in one of the cells complained about the lack of walks during weekends. One of them had spent about a year under such a regime.

The prison governor stated that he had been trying to avoid penalties of special confinement for juveniles.

1.4.3.3. Ward for Juveniles

There were two units for juveniles, e.g. prisoners sentenced as juveniles for offences committed before 18 years of age. Each unit rooms 15 juveniles. The dormitories are partly separated from the rest of the unit. As there is no wall between the room and the yard, the dormitories are called "open" rooms.

The beds are grouped either in a group of two or a group of four. Every bed has a pillow, sheet and a blanket, and beds are 30 centimeters above the floor. However, the bedding is in a rather bad state. It is changed twice a month. Rooms have large windows, sufficient access to fresh air and natural light. Rooms are heated during the winter. Every unit has a bathroom with showers and toilets. Furniture, walls and floor are in a bad state of repair and need renovation. Inmates are allowed to keep personal belongings in their rooms and to decorate the walls. They are allowed to move freely inside the unit and, during the day, inside the prison. On Friday, Saturday and Sunday the inmates can watch TV and video until 2:00 a.m., while during working days they are allowed to watch TV until 11:00 p.m.

Units designed for adult offenders are similar to those for juveniles. Material conditions in these units are generally acceptable. Some renovations are needed, however.

1.4.3.4. Kitchen

The kitchen in the prison is relatively big and clean. A cook and three prisoners working in the kitchen prepare meals. These prisoners live separately from other inmates due to sanitary demands. Prisoners eat their meals in the prison's dining hall, which is spacious and rather clean.

1.4.3.5. Clothing and toilet articles

The hygiene of prisoners' personal clothing is not very good, but acceptable. Prisoners are allowed to wear their private clothing apart from shirts, which are the same for all inmates. They can buy toilet articles in the canteen. In case that an inmate cannot afford it, the prison administration provides him with the basic toilet articles.

1.4.4. Nutrition

At the day of the delegation's visit, prisoners received beans with ham (about 14,200 KJ) for dinner. According to the kitchen staff, they prepare the same type of food for both juveniles and adults. Some prisoners complained about the quantity of food. Some of them pointed that they received fruits and cakes only occasionally. However, they told the delegation that since the last visit of the Helsinki Committee for Human Rights in Serbia they had started to receive cakes on weekends.

The prisoners are allowed to receive two parcels with food per month. They can also buy some food in the canteen. There is also a small coffee shop, close to the dining hall, where inmates can prepare tea or coffee.

1.4.5. Medical care

Since November 2004, the prison has had a full time employed medical practitioner. The prison also has a dentist, a medical technician and two medical assistants. There is a need to employ a neuro-psychiatrist, as the prison does need one. The prison administration plans to sign a statement of consent to this.

According to the medical staff, there were no cases of TBC or HIV at the time of the delegation's visit. Five to ten cases of Hepatitis (B or C) had been registered during 2004. Comparing to 2004, there had been a significant decrease in bodily injuries resulting from violence amongst prisoners. Medical staff as well as the chief-educator informed the delegation that there had been no rape cases since the reorganization of the prison at the end of 2004, as many violent inmates had been relocated to other Serbian prisons.

The delegation met with six prisoners stationed at the prison ambulatory – three of them because of psychiatric problems, and three because of severe injuries resulting from inter-prisoner conflicts. Prisoners do have access to their medical records. Medical staff does not inform *ex officio* state institutions about the injuries.

Inmates can contact a practitioner and get an appointment with a psychologist if needed. Inmates who need specialized medical care are brought into the Valjevo hospital. According to the inmates, they can contact the doctor whenever they need him.

Medical staff pay visit every day to inmates who are placed in solitary confinement or in one of the special cells for disobedient juveniles.

1.4.6. Discipline, punishment and isolation

The governor imposes disciplinary penalties. According to information received from the prison administration, following disciplinary penalties had been imposed in the period from 1 January to 30 May 2005:

Reprimands – 12.

Placement of a juvenile in a special cell – 15, including four conditionally suspended.

Solitary confinement of an adult in an isolation cell – 67, including 18 conditionally suspended.

A medical examination is obligatory before the placement in an isolation cell or a special cell. A doctor or a medical staff is obliged to control the health condition of an inmate during the execution of the penalties. No inmate had appealed against the decision concerning the disciplinary penalty. There is no judicial control over such decisions.

1.4.6.1 Violence among inmates

The main objective of the present governor has been to eliminate the prison subculture that used to be very strong in the Valjevo prison. Previously, there were many abuses, injuries and insecurity among the inmates in the prison.

Some 30 inmates used to hide in the prison's ambulatory from the abusers. The present governor, therefore, has had many of the older inmates who were responsible for the informal prison structure transferred to other penal institutions in Serbia. He has also introduced a clear and consistent system of rewards and punishments.

1.4.7. Use of force and arms

During the last six months, there had been two registered cases of use of means of force. No inmate had submitted a complaint against it.

1.4.8. Contacts with the outside world

Juvenile prisoners are allowed to receive family visits once a week, while adults can receive a visit every second week. One visit lasts one hour, but the prison governor can allow for it to be prolonged. Inmates meet their families in a rather big room (approximately 40 square meters). Tables and chairs are in a bad state of repair. In case of an unexpected visit from relatives from abroad, the governor can admit an additional visit.

There are three rooms adjusted for inter-marital visits. For prisoners who are not married but have a girlfriend, two witnesses have to confirm that the two persons are in a relation. However, it has happened that intercourse has taken place with prostitutes. According to the *LECS, Article 72*, a prisoner is entitled to have one visit from a partner every three months. The visit lasts three hours. According to the chief-educator, such visits play an important role in reduction of the level of homosexual violence among prisoners. Condoms are not available in the prison. Visitors are informed about things they are allowed to bring into the prison, however, including condoms.

There are no strict provisions concerning prison leaves. The governor exercises a broad scope of discretion in this respect. Those prisoners who are not under closed regime can obtain the governor's permission to leave the prison area. First, they are allowed to leave for several hours during a weekend. If they obey the rules, they can even get a home leave. The governor gives leaves as a reward. Prisoners who are given a leave are obliged to register at the police station.

Correspondence is unlimited. According to the *LECS, Article 66*, a prisoner has an unlimited right to correspondence. Since the operation "Sward" in 2003, all letters sent by prisoners, including letters addressed to a lawyer or complaint letters, has had to be handed to the prison administration without an envelope.

The Valjevo prison has good contact with a local orthodox church. The local priest takes care of prisoners' religious life. He also organizes excursions for prisoners.

According to the governor, media and journalists are allowed to make contact with inmates. Recently, after the reshuffle in the Valjevo prison, there have been several articles with rather sensational titles in newspapers, and the governor and chief-educator stated that many inmates had become reluctant to talk to journalists.

The court can grant an earlier, conditional release for a prisoner. However, this happens very seldom. The prison governor is entitled to release an inmate unconditionally up to three months before the end of the sentence and in the Valjevo prison the governor uses this possibility in many cases. In the period from 1 January to 30 May 2005, eight prisoners had been released conditionally by the court, whereas 26 inmates had been released unconditionally by the prison governor.

1.4.9. Activities

The prison has an elementary school enabling inmates to complete the basic education, e.g. eight years of primary school. There were five prisoners enrolled in the elementary school at the time of the delegation's visit. There is also a vocational school enabling inmates to gain a vocational education as a carpenter or metalworker. Presently, the inmates cannot receive a certificate of the vocational training because of a disagreement between the Ministry of Justice and the Ministry of Education. Inmates have no opportunity to learn computer skills. According to the chief-educator, the administration plans to use computers for educational purposes. However, there is no money available for computer programs and a person to administrate a computer system.

Basic vocational courses which last one or two months qualify inmates to work at workshops. When they start to work in the workshops they get paid a small amount of money, amounting to 10 dinars (0,12 Euro) per hour. According to *Article 264* of the LECS a juvenile is entitled to receive a compensation for his work. The prescribed amount is 20% of the lowest salary in the Republic of Serbia and overtime is increased to 50% of lowest salary. Prisoners told the delegation that this is not a bad salary comparing to what prisons for adults pay to their inmates. The Ministry of Justice decides the level of earning. However, the opportunity to work in the Valjevo prison depends on the contracts that are made by the prison administration. During the delegation's visit, most prisoners present in the workshop did not have any job, as the previous contract had just expired. The inmates do not get social insurance.

In their leisure time prisoners have the chance to participate in different sport and cultural activities, which usually start at 3:30 p.m. and last until 7:30 p.m.

One of the pavilions acts as the center for sport and cultural activities. The center has a big hall for sports activities. The hall can also be used as a room for theatre performances or concerts. The library has about 6000-7000 books, mainly translations of classical literature. Prisoners may borrow books from the library, but they are also allowed to receive books from their families. One room in the center is used as a workshop for painting and other artistic activities. The prison administration had employed a painter in order to carry out painting classes. He complained that they didn't have the sufficient materials necessary for such activities. Some inmates were engaged in the publication of a magazine. The chief-editor was a member of the staff responsible for the organization of cultural activities.

Inmates placed in so called increased security cells are not allowed to participate in education, vocational training, work, or sport activities.

Juveniles are allowed a family visit once a week, while adults can receive a visit every second week.

1.4.10. Inspections

The Valjevo prison has been visited regularly by NGOs and the Ministry of Justice, and the prison administration has received recommendations submitted by the Helsinki Committee for Human Rights in Serbia. However, the prison administration repeated that they do not have the necessary financial resources to meet the requirements suggested by the Helsinki Committee.

1.4.11. Staff

The prison has over 90 guards, including those guards who work in the unit for prisoners on remand. There are also six educators, one psychologist, one sociologist, one pedagogue, one psychotherapist and five teachers employed in this prison. There is almost no training for the prison staff. The prison governor had recently been to Sweden, where he had had the opportunity to visit some Swedish prisons.

1.5. Visit to the Penitentiary Reformatory in Požarevac

The IHF delegation visited the penitentiary reformatory institution Zabela in Požarevac on 30 May 2005. The visit to the institution started at 9:30 a.m. The delegation first spoke to the prison governor, who presented some general information about the institution.

1.5.1. Basic data

The Zabela Prison was founded in 1910 and is placed in the outskirts of the city of Požarevac. Over the last years, repairs have regularly been carried out. At the day of the visit, overhaul of the buildings and premises was performed. Two of the buildings had been totally ruined and burned down during the riots in 2000. One of these had already been renewed and the other one was to undergo a solid rebuilding operation. The prison director informed about plans to build new buildings because of overcrowding. Because of this overcrowding, rooms previously used by the school had been reconstructed, and 80 prisoners placed in them. A central heating system had been installed in 2004.

The prison comprises a large area of 136,000 m². Zabela has five prison units (an admission unit, an open unit, a semi-open unit, a closed unit, a strictly closed unit), and several adjacent buildings that are part of the prison. The administration building and the visiting rooms are located next to the main gate. The following buildings are also in the complex: A library building (containing a library, a crafts area and an unused open theatre), a kitchen and bakery building, a hospital building, industrial buildings and a building used for spousal visits. Furthermore, there is a basketball court and a big football field (40 m x 15 m), along with a water fountain and a swimming pool. Finally, there is a gas station, a garage previously used as a stable, and an orthodox chapel. All these buildings are located in an area comprising 76,000 square meters. The remaining 58,000 m² contains an unguarded area, with the semi-open unit No. 8, a pig-breeding farm, stores, and workshops for wood and metal. Prisoners under the open regime are accommodated in a separate building, a few kilometres away from the closed and strictly closed unit. There are also few plants and trees in the yard of the institution.

The group was not allowed to take any pictures. The restriction on taking pictures included even the prison's scale model.

1.5.2. Categorization and segregation of inmates, and its purpose

The capacity of the prison is 2,100 prisoners. On the day of the visit, 1,366 convicted prisoners and 30 detainees (indicted and defendants) were kept in the prison. All were male, aged above 18. The number of inmates convicted for petty crimes was six.

Administratively, prisoners are divided into six categories - A1, A2, B1, B2, C1 and C2. Each category has different privileges regarding visits (*LECS, Article 68, Article 104*), leaves (*LECS, Article 104*), and parcels (*LECS, Article 74, Article 104*). The prison governor authorizes transfers from one

category to another. The criteria for the transfer are obscurely formulated in *Article 56* of the *House Rules*.

According to the obtained data, the prisoners were divided as follows:

- Strictly closed regime – 200,
- Closed regime – 1,075,
- Semi-open regime – 237,
- Open regime – 54.

Inmates under the same detention regime are put in the same corridor. Relocation of prisoners from one cell to another can be carried out upon their request, under the strict condition that the prisoner stays within the same ward after the relocation. Assignment of the type of the regime is not defined by a court. The LECS delegates the decision on the assignment of a prisoner to the prison governor. This regulation raises serious doubts, as the main factor in the decision procedure appears to be the personal attitude of the governor, who has the highest authority in determining the conditions of a particular prisoner. Moreover, no appeal procedure has been introduced.

There are several criteria for the segregation of the inmates: The severity of the sentence, the committed crime, and whether a prisoner is a recidivist or a first-time offender. The regime for the first-time offenders is quite different from the other regimes. The prison follows a progressive system, so that prisoners may move from harsher regime units to lighter ones subject to improved behavior. All of these criteria are provided by law. The final decision on the segregation of the inmates is taken by the prison governor.

The prisoners of each regime are granted different rights regarding visits, parcels, phone calls and leaves:

- a) In the open unit prisoners are entitled to one leave per week.
- b) In the semi-open unit prisoners are allowed to go home once or twice per month, work outside the prison, and use the phone for an unlimited amount of time.
- c) In the closed unit prisoners are allowed to receive one visit and one parcel per month. Prisoners moving from B2 to B1 sub-divisions of the closed unit are given more rights (e.g. right to receive more visits from people other than family members).

Similarly, in the admission units the rights of a certain prisoner depend on committed crime. The IHF delegation was informed that there are statistical data for the aforementioned rewards and that this data shows clear compatibility with the 2001 *House Rules*. They are valid for the institutions in Niš, Mitrovica and Požaverc. The delegation was also informed that it would be provided with the house rules of the prison as well as with data about the budget, the medication and the food expenses of the institution before finishing the visit. No specific data about the cells and the space per capita were presented to the delegation.

No official data is available on the ethnic backgrounds of the prisoners. There are only prisoners of Serbian origin, of Muslim religious background and Roma in this institution, as foreign nationals are accommodated in the Mitrovica prison. The minorities are not widely represented among the prison's population. According to the administration, the share of Roma is under 10%. Ninety-nine percent of the prisoners are Orthodox Christians.

The delegation received only a three paragraph document which showed that the financial income in 2004 had amounted to 114,900,000 dinars (app. 1,436,250 Euro) and that the financial spendings had been 103,800,000 dinars (app. 1,297,500 Euro). Information on the items of expenditures was requested.

1.5.3. Material conditions and hygiene

1.5.3.1. Strictly closed unit

The strictly closed unit was the first one visited by the delegation. The unit accommodated a total of 200 people. This unit is situated in a separate area and is surrounded with a concrete fence. There are 28 cells on the first floor and 83 cells on the second floor. The building has a glazed roof.

The standard cell in the closed unit measures about 2.5 square meters and is designed for four people (two sets of bunk beds). Apart from the beds, the cells are furnished with tables and chairs. There is about 90 cm of space between the beds and the tables. The toilet and sink are also in the cell. They are separated by a partition that does not provide any privacy. The cells do not have lockers, and prisoners store their personal belongings on the shelves. The bed sheets were not clean and were of grey color.

The parameters measured in the cells were:

Index / Place	Cell	Corridor
Humidity [%]	62	59.2
Temperature [degrees C]	29.7	29.8
Light [Lux]	30	3300
Noise [dB]	50	60

Since the inmates of the strictly closed unit are not allowed to work, they spend the whole day in the cell. They are also not allowed to go to the dining room for the meals and therefore eat in the cells. They are given the right to a one-hour daily outdoor stay. Every cell is equipped with one or two private TV sets. The inmates are allowed to read books, but the delegation did not notice any books in the cells.

Inmates informed that they were allowed to take a shower once a week. This seems absolutely insufficient, however. During the summer the temperature in the rooms increases strongly, as the rooms only contain one window that only opens very narrowly. The unit also has no ventilation system. Reportedly, it had been rather cold during the winter, but the situation had improved since the heating system had been installed. Inmates claimed that they were sometimes provided with toilet articles, but the main suppliers of these remained to be the relatives of the prisoners.

The shower in the unit measures about 12 square meters. There is a partition that divides the sinks from the showers. There are three sinks and six showers on the premises. Inmates cannot regulate the water temperature, as the guards do it from the room where the boiler is installed. The inmates can wash their clothes in a washing machine. Their underwear is washed in the cells.

The building has an extra wall (in total two walls) that was built with the aim of increasing the security. It is currently under reconstruction, and had newly been painted at the time of the visit. Between the floors of the building, there are fences. The cells are distributed into two separated wings on each floor. There is a label with the prisoner's name on each iron cell door, and additionally a count of the number of days he has been in isolation.

1st floor:

There are 12 cells for solitary confinement and ten cells under reconstruction. The cell doors were being painted at the time of the visit. The iron cell doors have labels with the name, the date of entry and the date of release from the solitary confinement. The majority of the prisoners here spend 15 days in solitary confinement, but some also ten or seven days. The delegation also met one inmate who had a life sentence and another one who had been suffering from mental problems. The guards in the whole unit carry truncheons.

The cell that the delegation entered, measured 3.5x2.5x3 m. It was wet and smelly, and was equipped with one iron bed, a barred window (1x1 m), a toilet, some furniture, but no TV set or books. The prisoner there had been in the prison for two months. In January 2005 he had been moved to the closed

unit (to serve a 15-month sentence for theft), but had refused to work and had behaved badly towards the guards, and had therefore been punished with solitary confinement for a month (25 April – 25 May). He was allowed to take a one-hour walk every day and to have a shower once a week. The prison house rules had not been distributed to him.

The prisoner in cell no 12 had mental problems, and had therefore been admitted to the hospital from time to time. He had sometimes also been placed in the solitary confinement section.

The room containing the showers was damp and molded. Partly, there were new tiles on the wall, but there was no paint whatsoever, and the whole room was in an awful condition, although it was told to have been renovated.

2nd floor

The cell the delegation visited accompanied by two guards, measured 1.7x3x3 m and was very hot and humid. It accommodated four inmates, all of Serbian origin. The beds were in a normal distance from the floor. The prisoners claimed that before the installation of the central heating, the cells had been quite cold, but that the situation had improved. There was an electric lamp above the door, a heater (1.2x0.4 m) near the iron cell door, one window (1x1 m), one sink with no warm water, a toilet, one table, one chair, one bench, and cupboards. The cell also had a TV. No regulations on the allowed time for watching television had been introduced by the administration. There were also some CDs and books in the cell.

The prisoners are allowed to have a shower once a week in the joint bathroom. The toilet articles are provided by the prison. The prisoners are allowed to take a one-hour daily walk. They can receive visits once a month, but can have visits from a private lawyer whenever they express a need for this. The prisoners receive packages from their relatives or friends regularly. This is not restricted by the administration. In the case of this particular cell, all the inmates (whose duration of stay varied from two to six months) had firstly been in the other units of the prison before being transferred to the strictly closed unit.

Two of them had been placed in the strictly closed unit after the order from the court. Another one had been in the open unit until an unsuccessful attempt of escape. Afterwards, he had been placed in seclusion for 15 days and then in the strictly closed unit by the director's order. However, he could not understand why he had not been placed in the closed unit instead. Furthermore, he was not sure how long would be the period of his stay in this unit. The fourth prisoner used to be in the closed unit, but after having refused to work had been placed in the strictly closed unit. All four inmates claimed that even though the quantity of food was satisfactory, its quality and its taste were not. Despite some undertaken efforts for change, the menu included a salad but no fruits on which some of the prisoners insisted be introduced. They were served enough meat, and this was substituted with fish on Fridays and during the religious holidays. The inmates reported that they were treated well by the guards.

One of the inmates had heart problems, but had not received any medicaments yet. During the the delegation's visit the mentioned prisoner had already been waiting to see the doctor for two months. In general, the inmates claimed that the doctor did not visit the strictly closed unit and the solitary confinement units. They also informed that the medical care situation was better in the closed and the open units.

The inmates of the strictly closed unit are allowed to make only one 5-minute phone call per month. The situation in the other units is better: In the closed unit they are allowed to make two 5-minute calls per month, while in the open unit neither the number nor the duration of the phone calls is limited.

The delegation received much information about different units of the prison from a prisoner who previously served sentence in the Mitrovica prison. He had been in Požarevac for 12 years, and was serving a 20-year sentence for multiple murders. He had spent most of his sentence in the closed unit. In January 2005, he had been moved to the open unit. Although the job in the open unit was heavier, he had accepted this transfer in order to be able to visit his son more often. However, due to his health

problems he had refused to work and had as a punishment been moved back to the closed unit. The only member of administration he had the opportunity to talk to was the doctor. Access to the prison director had not been granted to him and the guards did not pay attention to his complaints. According to him, the closed unit had almost 170 prisoners, of which only 50 worked.

Top floor

The roof of the building has a glass section which lets natural light into the building. This part of the building therefore has a glass ceiling, which lets light through to the inside. The top floor has 89 cells in total. The cells on the top floor are situated on two sides with a gap in between that looks onto the floors below (e.g. left side cells: 54-68m right side cells: 69-89). Should something occur in a particular cell, the number of the cell will flash red on the administrative board together with the number of the specific wing of cells (left or right on each floor).

The bathroom [2.5x3.5x3 m] was rebuilt in 2000. It has one window (1x1 m), one heater (0.5x1 m), six showers, and six taps in a unified bigger basin. The boiler is situated in a separate room and regulated from there.

The corridor has nine basic and three smaller electric lamps in each wing (a total number of 18 plus 6 emergency lights, respectively). The light, both natural and artificial is, however, still insufficient for reading. The rules of the regime do not allow for prisoners to consume the meals outside their cells in the prison's dining room.

Cell No. 82

This four-bed cell was occupied by one inmate. The mattresses are too low, as they are only 25 cm over the ground. The man, A.E., was from Mitrovica. He had been in this cell for five months, but had previously been in the open unit. At first, he claimed that he had spent four years in prisons, but then changed his statement and said that he had spent a total of 12 years in various prisons as a defendant facing murder charges. The governor informed the delegation afterwards that the prisoner had not been a remand convict, but an accused prisoner for a long period of time. A court had passed a sentence, which A.E. had appealed. While waiting for the appeal decision, he had decided to serve his sentence, and had already served 12 out of the 15 years of his sentence.

1.5.3.2. Closed unit (Pavilion #5)

The closed unit is located in a different building than the strictly closed unit. Inmates can walk inside the building during the day, but they are not allowed to lie on their beds. Prisoners have to wear prison clothes when they are outside the building; inside they wear their own clothes.

The wooden doors of the cells are open, and the prisoners can move freely within the corridors. There is one shower and one dining room. The first cell the delegation saw measured about 25 square meters, and was intended for eight inmates. The room had sufficient access to light, the windows were large and there was sufficient fresh air. One window was barred on the inside (2.5x2 m), and another window was placed above the door (2x0.5 m). The cell was equipped with lockers for personal belongings. As the ceilings were high, one bulb was insufficient as the only source of light. The shoe shelves are placed outside the cells.

2nd Cell

There are two big cells for 40 prisoners in the unit. The second cell that the delegation visited was one of these two big cells, containing 20 sets of bunk beds. Two beds were empty. The rooms had two windows (2.5x2 m) and lockers. The conditions are the same as in the other cells of the unit. Three of the prisoners that did not work were interviewed. None of these three prisoners carried out any work. All three had been in the closed unit for their entire stays. They spent their time reading books and writing letters. They claimed that their letters had been censored. They informed that the library offered a good selection of books.

The inmates told that whenever they complained about their health, they were in principle allowed to see a doctor and that the guards were helpful in this matter. However, actually getting to see the doctor

is generally difficult. One of the prisoners was Muslim, and pork was excluded from his menu. Another prisoner said that he had previously been in another prison closer to his hometown and that he would have preferred to be in that prison instead of this one.

The prisoners have a free access to the bathroom and they can have a shower once a week, but it is common that if a prisoner works, he is allowed to have showers more often. The bathroom is in a good condition and has three toilets and three basins.

The prisoners are allowed to spend 3.5 hours per day on the sport fields and in the swimming pool. They have the opportunity to order newspapers and magazines, for which they are obliged to pay. Prisoners of this unit can also spend time in the TV room and listen to the radio. Working inmates are entitled to additional food, like eggs and 300 grams of milk daily. The quality of the food is checked by the doctor and the menu is prescribed according to the inmates' health condition. The visits from lawyers and relatives take place in a separate building.

There were three lists on the corridor walls:
Daily shifts of the prisoners who clean the corridors
Daily shifts of prisoners who clean the TV room
Names of the prisoners engaged in sports activities

The delegation visited one of two cells containing 50 square meters, conceived for 20 prisoners. The lockers in the cell were possible to close. All bed-sheets were clean.

The toilets are separated from the showers and placed in a separate room so that the inmates can enjoy some privacy. Inmates have the right to shower once a week, while those inmates who work can shower every day.

Former school

The building had newly been painted and the floors were clean. Prisoners are obliged to wear prison clothes while outside the building, but inside they can wear their own clothes.

The wooden doors of the cells were open and the prisoners could move freely along the corridors. There was one shower and one dining room.

One of the cells had four bunk beds that were 30 cm above the ground, one window barred on the inside (2.5x2 m), one window above the door (2x0.5 m), one source of electric light that was not sufficient for reading, and eight lockers. The shoe shelves were placed outside the cells.

Some of the prisoners interviewed in this cell worked and some didn't work. They said that being placed in the closed unit did not depend solely on the duration of the sentence they served, as one of them had a 40-year sentence and should have, based on this criterion alone, been placed in the strictly closed unit.

1.5.3.3. Semi-open unit

This unit is located separately from the main prison facility. The building was built in the last century and now requires a renovation. Significantly, there was only one guard for 250 inmates here.

Inmates from this unit are allowed to leave the building and go to the farm, which is situated on the territory of the the prison. The boundaries of the area in which the prisoners are allowed to move are marked on the ground. The distance from the dormitories to the boundaries measures 300-400 meters. Prisoners are woken up at 06:00 a.m., start their work at 07:00 a.m. and continue until 03:00p.m. A few prisoners are allowed to sign contracts with external employers, as they handle 8-hour jobs.

At the entrance of the building, there were lists of prisoners who had been awarded the right to accept more parcels or visits, or who had been released on parole. The *House Rules*, dated February 2001, had been posted on the wall.

There was no electricity supply (e.g. no sockets) in the rooms. The boxes with personal belongings were placed under the beds and they were checked from time to time by members of the administration. One inmate informed the delegation that since his arrival to this unit two months ago there had been no such check. According to the inmates, the heating during the winter was sufficient.

The prisoners are allowed to shower every day and the shower is available to them during the whole day. The bathroom and the toilets were in deplorable condition and needed to be repaired.

On the first floor, there are two rooms, intended for 30 prisoners each. In one of the rooms there were 32 beds, a plastic floor in a bad condition and two sources of electric light. There are eight rooms on the second floor of the building. The delegation did not visit these.

The unit has two TV rooms and the inmates are also allowed to listen to the radio. The prisoners can prepare tea or coffee for themselves. There was a phone booth outside the building.

The unit has its own dining and sitting rooms. Both of these have plastic floors. The meals for the inmates are supplied by the prison's main kitchen. There were tables and chairs for 50 people in the dining room. The unit has a canteen, open from 09:00 a.m. to 04:00 p.m. It has normal prices for items like coffee, cigarettes, aftershave and washing powder.

Sick prisoners from this unit are placed in a separate room, containing 18 beds. One of these beds was unused (without a mattress). The walls in the room were wet and in very poor condition. An inmate informed the delegation that the medicine he had been taking was not from the positive list [of reimbursable medications] and that therefore he had to pay for the medication himself. A prisoner with heart problems and diabetes had been in the unit for two years and had one year left of his stay in the prison. The request for early release due to his health condition had been turned down. Serbian law does contain such a regulation, but according to them, a sentence cannot be terminated because of health conditions, only decreased.

1.5.3.4. Library building

The library and the craft-work area are situated in an old building. Inside this building is an open space that used to be a theatre, but it is now abandoned and greatly destroyed. The veranda that looks to the theatre has no bars or protective wall, so one could easily fall down.

Library:

The room was spacious [5 x 5 x 3.5 m], it had four electric sources of light and several cactus plants. There were many bookcases and it had now been allowed to read in the library. The room was equipped with a bench, a radio and an aquarium. Several nude pictures were on the wall.

The library has 4,500 books, mostly old legal books from the countries of the former Yugoslavia. It has some books in English and French (modern literature), and several books in Albanian from the pre-war period when Albania and Serbia exchanged books. One can also find some religious literature, but the prisoners now do not read this literature like they used to during the previous decade. Most of the books prisoners ask for can be found in the library. Those books that are not in the library can supposedly be ordered from the outside.

Most of the prisoners visit the library during the weekend. Those who want to are allowed to visit the library also during the week, but they need permission for that. Prisoners from the strictly closed unit are not allowed to visit the library but may ask for books, which will be brought to their cell.

Craft area:

The building has two big rooms where prisoners work with wood, and some smaller rooms where tools are kept. According to the prison staff, two prisoners worked in this room alone and were not

supervised. Reportedly, they were very gifted, although none of them had been under any training. They produced carved pictures with religious themes. The pictures were then sold. The delegation met only one of the prisoners who had been in the closed unit for six years. He expressed hope that he would be transferred to the semi-open or open unit, since the prison administration makes use of the progressive system.

1.5.3.5. Chapel

The prison's chapel is placed in a new room (5 x 3.5 m). The chapel is decorated with frescos, candles, and it also has a bell. It is open only upon prisoners' request.

1.5.3.6. Prison heating system

This is situated in a separate building along with the main boiler.

1.5.3.7. Bakery

The bakery is located in an aged and dirty two-room building. Many items were scoured, and the room where bread was stored was extremely wet. The bakery prepares 1,800 loafs, pizzas and rolls daily. 12 prisoners and one chief baker were employed in the bakery. Seven of them were distributed to the morning shift and five to the evening shift.

1.5.3.8. Kitchen

The first impression after entering the kitchen was that it was extremely dirty. It is a huge building with an old floor, a wet ceiling and many cauldrons. Much water had been spilled on the ground. Twenty-two prisoners were employed as a kitchen staff and there were also two chefs who worked in a two-shift method. As the prison produces its own vegetables (onions, potatoes and tomatoes), large amounts of potatoes and onions were stored in one of the rooms.

Both the prisoners and the guards are eligible to make proposals about the daily menu, which contains 2500 kilojoules per day. The menu that had been prepared for the last week of May 2005 included: 100 grams of meat daily, except when musaka (a meal of baked diced potatoes and minced meat) was on the list. Apart from this, the diet consisted of vegetables like beans, green peas, rice, salad and potatoes with paprika. The menu also contained chicken or lamb. Pork was not included on the menu. The prison's kitchen also prepares the meals for the women's Penitentiary Reformatory prison in Požaverac.

The main kitchen room leads to the dining room, which has the capacity for 400 prisoners. The prisoners dine in four shifts. The personnel serving the food wear gowns.

1.5.3.9. Admission unit

The unit has a capacity for 48 people. On the day of the visit, there were 14 inmates in the admission unit. According to the law, newcomers are first sent to the admission unit where they should stay for 30 days. However, they usually stay no longer than either five, eight, or nine days. Reportedly, the longest period of stay in the admission unit was two weeks. During the time here, psychologists and pedagogues work with and observe the new inmates and create a report that is delivered to the prison director, who decides to which department a particular inmate is to be sent. Newly arrived inmates are informed about the house rules. There is an information panel on the wall.

One inmate complained that he had not had the opportunity to see a doctor while he was ill. Nobody had explained to him that he should have filled in a special form. Another inmate had asthma, but had only mentioned it in his personal information form upon admission and had neither been seen to by a doctor nor received any medication. Inmates were not provided with any toilet articles during their stay in the unit and the families remained the only providers of such articles. They expected to have their interview in three weeks from the time they were admitted. They confirmed that they had been given copies of the internal regulations.

The toilets are in a separate room. The toilets had no seats and there was no possibility for privacy. The unit has a living room which had recently been painted. There was only one electric lamp of 40-

60 watts here, which did not seem to be sufficient for reading, and only one window (1,5 x 2 m). The inmates have lockers in which to store personal items.

1.5.3.10. Visiting room

The room was furnished with chairs and tables, and there was no obstacle to preventing from physical contact from occurring. The prisoners meet their family members and lawyers here. The prisoners are allowed to receive parcels from their visitors.

1.5.4. Nutrition

The prison has its own bakery and kitchen. Every day, the bakery bakes 1800 breads for the inmates. As the prison has its own farm and agricultural lands, it produces its own meat and vegetables. The premises are very old, and they should be repaired. Inmates who work in the kitchen smoke while they cook, the floor is not clean, and the smell of rotten onions and potatoes spreads all around the kitchen area.

Article 61 of the *LECS* prescribes a minimum daily caloric value of the food to 12,500 joules (3,000 calories). The menu for the current week was placed on a wall in the kitchen, together with the special diet menu for those inmates who did not eat pork. Officially, meat has to be included in the daily menu, but the delegation was informed that the inmates were given bacon.

Inmates also have access to the canteen once a week. As inmates are not allowed to keep cash, all purchases are written down in a special book, where their incomes and spendings are calculated and indexed every month. The prisoners all have personal ID signifiers.

1.5.5. Medical care

The prison medical service is free of charge, but is not part of the national medical system. The sanitary-epidemiological supervision is made independently by a specialized territorial section of the Ministry of Public Health. In case an inmate chooses a paid specialist, he needs to receive permission for establishing a contact and needs to have this checked by the Central Prison Administration in Belgrade (*LECS, Article 91*). But the prison's practitioner specified that he would not tolerate and allow unfamiliar practitioners to treat his patients in the Zabela prison. During 2004, none of the prisoners made use of *Article 91*. Any prisoner who needs to be examined by a specialist is sent to a civilian hospital.

The institution has a large medical department. The dentist works eight hours per day and receives 15 to 20 visits in this time. The dentist's room is equipped with two dentist's chairs. All instruments are for continued use, and must therefore be sterilized. The prison dentist conducts all operations except from preparing the prothesis.

The practitioner works every day for eight hours. The medical unit also employs three nurses. The other personnel consist of a surgeon, a psychiatrist and some other specialists working part-time. In emergency cases when the doctor is not on duty, inmates might be transported to the city hospital.

Upon their admission to the prison hospital all inmates are examined by a doctor. Every prisoner has a personal medical file that is opened upon his admission to the prison. Height and weight are recorded at every medical examination. The planned treatment is also recorded. For this purpose, The International Classification of Diseases, revision 10 (ICD-X) is used. Should an admitted prisoner already have a medical file, this will be taken over and continued by the prison's administration. There are no preventive medical examinations or prophylactic activities. Patients do not sign up for medical examinations or treatments.

The *LECS* does not have regulations on keeping classified personnel or medical information on prisoners.

It was not confirmed whether the prisoners under isolation regimes undergo a medical examination in advance, as is prescribed in *Article 126* of the LECS. No information on this was found, nor were any other documents regarding this regulation.

The inmates who want to see a doctor have to write down their names on a list, which is handed to the security personnel. In pavilion 7, prisoners informed that they had to wait up to three to four weeks before they got to see a doctor. However, in the case of emergency inmates gain quick and direct access to a practitioner. Prisoners did not seem to be acquainted with the principles of informed consent. It seemed that the interviewed inmates did not receive information about the purposes and risks of their treatment. Those who refused treatment, however, were obliged to declare their refusal, which was recorded in their files. The medical statistical information is collected for the Ministry of Justice purposes and is not available for public use.

There were 45 hospitalized prisoners at the time of the visit. Some of them had TBC, HIV, psychological problems or age-related illnesses. According to the chief practitioner, the ward had 25 patients positive for Hepatitis C. None of them were isolated, as the prison practitioner believed that Hepatitis C should not be dangerous for other inmates. However, prisoners had also made false complaints, as was the case with a drug addict who had falsely claimed to have Hepatitis C. Prisoners who work in the kitchen go through a mandatory medical examination every six months.

The prison doctor seemed to not be very interested in his duties, and was neither helpful nor cooperative. When asked about bruises that are found on the bodies of admitted persons or prisoners, he replied he had been consulting the prison's legal advisor on the issue. A report on eventual bruises can be prepared only on prisoner's request. However, no such incidents had been reported, and the delegation had the impression that this issue was avoided purposely. The delegation asked to see the book that, according to the *Article 61*, must contain information about quality and quantity of food. There was no concession made towards delegation's wish.

Room #1

The room had five beds. One of the inmates, who had been shot in the leg before entering the prison, had been hospitalized because of TBC and HIV. Another prisoner, from the strictly closed unit had asthma. Both of them said that they are allowed to take one two-hour walk every day.

Room #2:

The room had six beds and very good access to natural light. Only two beds were used, and both patients were outside the room. The toilets in both of the rooms were in bad repair and their walls had been destroyed.

16,000 medical examinations had been registered during 2004: 9,080 of them had been of general character; 3,500 had been for dental purposes; 500 had required a specialist on internal diseases; 700 had required a surgeon; and 1,000 had required consultation from a psychiatrist.

In accordance with *Article 90*, 268 cases had been transferred to another health service.

Three hundred patients' charts had been issued as follows during 2004: Five heavy physical injuries, 70 light physical injuries, 15 self-wounding cases, and one suicide. Six people had died by natural causes in 2004, but no further explanation had been recorded in these cases. Medical service had issued 75 suggestions for sick leave, and 15 recommendations had been sent to court for the discontinuation of sentences because of medical reasons. Twenty requests for exemptions from work had been granted in 2004.

In 2004, 90 requests for additional parcels were approved. The right to receive additional parcels is based on the *Article 29* of the *House Rules*.

The prison spent 12,000 Euro on medicines and consumer materials in 2004. This amounts to 9 Euro per prisoner.

1.5.6. Work in prison

The LECS prescribes that the “*prisoners have the right and obligation to work*” (Article 76) “*in accordance to their physical and psychological abilities ... as well as what is feasible for the prison*” (Article 78). Work is one of the criteria for an early release. The sentence *per se* cannot be reduced, but the achieved results can have influence on the possibility of conditional pre-term release. In reality, not every prisoner is able to get a job. The situation on the Serbian job-market does not allow the prison administration to employ everybody who wants to work.

The work day lasts eight hours and the work is paid. Article 83 of LECS proclaims that “*the compensation is 20% of the minimal market price of the work in the Republic of Serbia and overtime during extra hours after the full working hours, it is increased to 50% of the minimal market price*”. Interviewed inmates informed that their payment was 1,300-2,300 dinars (16-28 EUR) monthly, for the 40 hour working week.

Prisoners from the closed regime (291), semi-open regime (195) and the open regime (54) are engaged in different employment types in workshops, the agricultural areas, the hospital, the kitchen, the garage and the library. Prisoners from the closed unit work either in the metal workshop (e.g. production of cookers), in the wood workshop (e.g. furniture), or in the agricultural areas. The prisoners usually work less than the 8-hour job schedule, but the working hours depend on the tasks they are involved in. The wages are partly put onto the account of the particular inmate. They are allowed to send the money to their families or keep it. Another part is paid in cash, and inmates can spend this on personal needs (canteen, telephone cards, etc).

However, some inmates like the prisoner who was punished by solitary confinement for seven days and after that was moved to pavilion 7 in February 2005, refused to work, and even asked to be transferred to the strictly closed unit, as prisoners from that unit are not allowed to work.

1.5.7. Discipline, punishment and isolation

The LECS also defines the possible consequences of the breaches of discipline. A prisoner who has breached discipline may be punished by reprimand, withdrawal of privileges or solitary confinement. A prisoner is subject to reprimand if he/she has committed a minor offence or has breached the rules for the first time since admitted to prison. A prisoner may be punished by up to 15-days of solitary confinement if his misdeed constitutes a serious offence or if he has been a habitual offender while in prison. In the case of concurrence of disciplinary offences, confinement in solitary cell may reach up to 15 days. The punishment with solitary confinement may be suspended. The law prescribes that the total duration of such punishment can reach up to six months over one calendar year. Article 130 of the same law, provides that “*the room, where the disciplinary penalty of referring to solitary confinement is executed, must have a size of at least 10 cubic meters, and it has to have natural light. The room has to be equipped with sanitary facilities, drinking water, bed with bed linen, chair and table, and it must be heated*”.

In 2004, according to the records, there had been 101 reprimands, 258 placements in solitary confinements; 118 stipulated solitary confinements and 24 deprivations of privileges.

Punishments had been executed because of the following breaches of discipline: 153 cases of physical violence between inmates; 53 records of offensive behavior towards the prison personnel; 50 cases of illegal import of opiate substances; 30 cases of illegal import of alcohol, and 29 cases of illegal trade.

Six punishments had been cancelled during the last year, and there had been four appeals against the penal orders.

1.5.7.1. Solitary confinement

An inmate can be sent to solitary confinement if he breaks internal rules, fights with other inmates, possesses a mobile phone, refuses to obey guards, or when prohibited goods are found in the parcels he receives. Whilst in solitary confinement, an inmate is not allowed to take up any activities, except from a daily walk of one hour. He is allowed to receive one visit from a doctor per day, and one visit from the prison governor per week. Between January and May 2005, there were 137 punishments with solitary confinement, and 35 warnings.

There were 14 cells for solitary confinement in the prison. The cell the delegation visited measured approximately eight square meters and was furnished with one iron bed, a cupboard, a table and a chair. The cell had a concrete floor. The air in the cell was damp, and the smell of paint was very intense. Natural and artificial light was insufficient.

The delegation spoke with an inmate (L.B.) who had been punished with 15 days stay in the solitary confinement. He had not been allowed to bring any personal belongings, against which he had submitted two complaints, both of which had been turned down. There were no house rules in this cell, and the inmate was not officially acquainted with them. He had been put in the cell on 25 May 2005, because his uniform was untidy and he wore a stand-up collar. After a remark from a guard, he had replied "*I know to whom I have to write about you!*" This dispute had taken place on 27 April 2005 in pavilion 5. On the same day, he had been moved to pavilion 7, where he had stayed until 25.05.05 in the so called "*prolazna soba*" (transition room), that has much resemblance to the solitary confinement. This transition room was created for inmates who wait for the investigation of the offence to end. He also mentioned the names of two witnesses.

He showed a penalty order, which he had received on 30 May 2005. It read that the start of the punishment was 27 May 2005. The appropriate law basis for the punishment was not mentioned in the order, it only mentioned *Article 117, paragraph 3*, of the LECS. According to the writing, he could appeal to the prison governor within three days after 27 May 2005. Anyhow, the appeal to the court makes no provisions in Serbian legislation, which means an inmate cannot appeal against the decision of the governor.

L.B. claimed that he had been physically abused (beaten) by the guards. He said that he had not been allowed to make an appeal, since they took the prepared appeal away from him. The governor said that all participants and witnesses of the incident had already been interviewed. There had been no medical examination before his placement in solitary confinement. In the end, a report on this case was sent to the Ministry of Justice.

All inmates hold their hands on the back while walking in the prison.

1.5.8. Use of force and arms

Fights between prison staff and prisoners do occur from time to time. In 2004, there were three cases in which prisoners attacked staff members, and 153 registered conflicts among inmates. If a prisoner submits a complaint against the prison governor, it has to be reported to the Ministry of Justice.

Monitoring cameras are installed on the walls around the strictly closed unit, closed unit, on the football field and the nearby the swimming pool. In case of disorder in the closed units, the personnel is allowed to apply means like handcuffs, spray and truncheons in order to maintain the control over the unit. The use of firearms in such cases is prohibited. Four such cases of disorder were registered in 2004. If a prisoner gets injured during such fights, the prison administration is obliged to prepare a report for the Ministry of Justice.

A guard can be punished either by 50% reduction of his salary for a period of six months or loss of the job. The financial fine is the most common one. However, the governor stated that six guards had lost their job because of reasonable corruption charges - they had allowed the access of drugs and mobile phones in the prison. In 2004 two guards had been declared guilty of physical abuse. Both had been punished with fines. No prisoner has ever received any compensation uptil now.

No guards had been found guilty until now for any kind of abuse or misbehavior against inmates. But, an investigation against a guard can be ordered if a prisoner contacts the Ministry of Justice directly. An individual appeal is the only way of initiating the investigation against a guard, but no prisoner had ever made such an appeal.

1.5.9. Contacts with the outside world

The penitentiary reformatory institution in Požarevac is a large prison, which provides a wide variety of areas for different sports activities like basketball, football, mini-football, gym, and jogging. The penitentiary also has showers with mineral water that can be accessed the whole day, and a large swimming pool.

The prisoners are allowed to make one telephone call per month from public telephones to their relatives only. They have no privacy, as staff members are present all the time.

All the outgoing correspondence is controlled, including the one addressed to the courts.

The prison library is open daily. The inmates need a permission if they want to borrow books for a longer period. Inmates in the strictly closed unit need to fill in a proper application form in order to receive a book. The prison administration informed that it had been expecting some new legal publications.

The prison has a new chapel, full of icons and candles. Many icons were painted by the inmates.

Most of the prisoners are Orthodox Christians. A Catholic priest is allowed to visit the prison, but there is no Catholic ceremonial.

In 2004, the prison administration assisted those prisoners who did not work during the execution of the sentence with a provision of clothes and sanitary belongings on their release from the prison.

1.5.10. Inspections

The representatives of the Ministry of Justice visited the prison in 2004. The prosecutor is not allowed to inspect the prison, despite having the opportunity of visiting the prison under the general terms concerning any ordinary visitor.

The Serbian Helsinki Committee for Human Rights has inspected the prison twice: in 2002 and in 2004. There is no proper provision in the LECS that would prescribe the visit of the representatives of NGOs, so therefore NGOs are required to work on the basis of a special agreement. The Serbian Helsinki Committee was the first NGO to visit this strict regime unit.

1.5.11. Personnel

The prison personnel are divided into five units: General, security, correctional service, medical, and educational-professional. The total number of personnel is 400. Out of that number, 270 are in the correctional service and 100 belong to the educational and professional services.

1.6. Visit to the Penitentiary Reformatory for Women in Požarevac

The IHF delegation visited the penitentiary reformatory institution for women in Požarevac on 31 May 2005. The visit started at 08:30 a.m.

The prison governor was appointed for her position in 2003. She had used to work as a social worker. She was the only prison governor who did not fill out the questionnaire sent by the Helsinki

Committee for Human Rights in Serbia (further on: Helsinki Committee). She claimed that she needed permission from the Ministry of Justice. This permission was never mentioned by the other prison governors that IHF delegations spoke to. However, during the visit the delegation did get all necessary information.

1.6.1. Basic data

The prison in Požarevac was founded in 1874. Many pavilions, e.g. the open unit, were built in the 1950s and had been renovated at least once. The prison institution expands over a large territory. The dormitories, the hospital and the dining hall are located in separate buildings.

The penitentiary institution in Požarevac is the only reformatory for women in Serbia. There is no pre-trial unit in this prison, as only sentenced inmates are placed there. Female minors (14-18 years of age) are also sent to Požarevac, as there is no special reformatory for them in the country. The maximum punishment for a juvenile is five years. They stay in the juvenile unit until their release, also if they pass the age of 18 during the serving of the sentence. However, on the day of the visit, there were no minors in the prison. Reportedly, there has not been a minor in the prison since 2000.

1.6.2. Categorization and segregation of inmates, and its purpose

The capacity of the prison is 200 inmates. On the day of the delegation's visit, there were approximately 140 inmates present. Most of them were from Serbia and only three were foreigners: two Bulgarians and one Romanian. There had also been one inmate from the Ukraine there in the past.

There are five units in the prison: An open unit, a semi-open unit, a closed unit, a special unit for ones who have committed misdemeanours, and a unit for minors.

While monitoring the facilities, the delegation observed that a diversity of food and toilet articles had been delivered to the prison. On this ground the delegation concluded that the financial situation of the prison seemed good. However, the prison governor complained about the prison budget which had been at her disposal.

1.6.3. Material conditions and hygiene

1.6.3.1. Admission unit

The entrance to the admission is locked with bars. It is said that newly admitted women should stay here for 30 days. Normally however, women are brought to adequate units after seven to ten days. Every month 20-30 women arrive to the admission unit. Nevertheless, according to the administration, this unit was never overcrowded.

The admission room was poorly equipped with an old chair on a pedestal. The floor was plastic and damaged, and the ceiling was wet. There were three big sources of light in the room, as this room was used for the taking of pictures of prisoners, for their personal files. The photographer is a civilian who comes to the prison when required, but does not belong to the prison's staff. In the admission room the prisoners' height is also measured, but weight is measured in the medical unit.

After arrival, every woman receives soap, a toothbrush, shampoo, a towel, toilet paper, bed sheets, new shoes, clothing, stationary, an envelope with a postage stamp and a pen.

Next to the admission room is a dormitory with ten bunk beds. On the day of the delegation's visit, the unit had five new inmates.

Toilet and shower are in a separate room. There is no door into the toilet room. In the shower there is a curtain that guarantees a bit of privacy. Material conditions in the admission unit are bad. It needs to be renovated.

1.6.3.2. Open unit

The open, the semi open and the closed unit are situated in separate buildings. The open unit was built in 1950 and was repaired in 2003. Its capacity is 20 people. There are five sections. At first the delegation visited section number 5.

A standard cell measures about 18 square meters. It is equipped with five beds (one of them is a bunk bed). There is enough fresh air in a cell. The intensity of light on the south side of one of the cells (despite curtains and big trees) amounted to 26 lux, and 87 lux in another cell on the north side. Humidity there was 56%. All bedding was clean. It gets changed twice a month. Every inmate has a locker for personal items. There is parquet on the floor.

Two showers, two toilets and three sinks are in a separate room. There are doors into the toilets and shower is available all day long. Inmates wash their clothes in the washing room, three times per week. The premises are very clean.

There is also a room where inmates can prepare tea or coffee. It is equipped with a cooker and a fridge.

Inmates clean the premises every day. On Sundays they wash the windows, curtains, floors and toilets.

1.6.3.3. Semi-open unit

The semi-open unit is divided into four sections. Its capacity is 30 people. There were 29 inmates there on the day of the IHF delegation's visit. The delegation visited a standard cell, which measured 25-30 square meters and was equipped with five to six beds. There was sufficient access to fresh air and natural light. The bedding was clean. Every inmate had a cupboard that could be locked.

There are two sanitary premises: one with toilets and one with showers and sinks. Toilets are of Asian type and can be closed from the inside. Showers and sinks are located near the TV room. The only possibility to reach the room where one can prepare tea and coffee, is through the bathroom. There is also a washing room where inmates can wash their clothes.

1.6.3.4. Closed unit

There are four sections in the closed unit. The capacity of it is 30 people. A standard cell measures 18 square meters and is equipped with either five bunk beds or six single beds. Large windows provide a cell with lots of fresh air and natural light.

Working inmates wear work-uniforms. They need to keep them on also when they leave their unit. When going to the shower they need to wear a bathrobe. They wash clothes three times per week in the washing room. They wash them by hands, as only bed linens are washed in washing machines.

1.6.3.5. Special unit for prisoners who have committed misdemeanors

The prison has a unit for those who have committed misdemeanors. There are two rooms here, with barred windows (as in the closed unit). There have not been any inmates in this unit since the time of *Operation Sward*.

1.6.3.6. Unit for minors

The capacity of the unit is 12 people. On the day of the visit, there were no minors in the prison. There is a living room, showers, toilets, and a club-room in this unit. The premises need to be renovated. Air in this department was very stuffy. Some prisoners from other units are sometimes moved to the unit for minors, to avoid overcrowding.

1.6.3.7. Unit for newborn babies

The overall state of repair of this unit was good. There are two rooms; one for mothers and one for babies; which are divided with a glass wall. The baby beds are in a very good state of repair. Equipment includes tables for swaddling and many toys. Bedding is very fresh. Two mothers, met by the delegation, said that prison provides them with nappies and hygienic articles for babies. This is free of charge.

There is a toilet, a shower, a bathroom for babies, and a kitchen equipped with a fridge and a cooker. There is also a room for a nurse. The prison employs two nurses who work in two shifts. There are also in the unit a few books related to baby issues to be found.

1.6.4. Nutrition

There is no separate kitchen in the reformatory for women. Therefore food is being prepared in the kitchen of the male prison in Pažarevac, and prisoners in both institutions get the same dishes. Reportedly, nutrition follows required norms, e.g. three meals contain 12,500 jules. (*LECS, Article 61*).

Although the capacity of the dining room is 200 prisoners, they do dine in two shifts. The plastic floor in the dining room is damaged, tiles on the walls are broken and the ceiling seeps. There are ten windows and many plants. It is also equipped with ten heaters.

Speakers attached to the wall are used for announcements and various sport events. They were also installed in the internal prison radio system, but this is not in use anymore. There are also two cameras on the wall, which are used in case of gatherings of prisoners in corridors and in the closed unit (there are no cameras in cells). Smoking is not allowed in the dining room. Ten prisoners work in the dining hall: Five in the morning- and five in the evening-shift.

The prison canteen is open from 10:00 a.m. to 02:00 p.m. and from 04:00 p.m. to 06:00 p.m. on working days. On Saturdays, opening hours are from 11:00 a.m. to 01:00 p.m.

There is no special menu for pregnant women – they receive a diet of the same caloric value as other inmates. To the delegation's question on why prisoners do not get more vegetables and dairy products, members of staff explained that the inmates had not expressed this wish to the prison administration. A special diet is prescribed only for babies.

1.6.5. Medical care

Every month the prison receives about 20.000 dinars for medicines. According to the administration, in 2004 the reformatory in Požarevac spent 20.000.000 dinars on food, 5.000.000 dinars on medicines and 2.500.000 dinars on sanitary materials. On the day of delegation's visit, around 50% of prisoners were receiving permanent medical therapy. The most common claim is that of hypertonic disease. The medical equipment is rather limited. There have been 2.122 examinations in 2005. The IHF delegation noticed that the book of medical records did not contain patients' signatures.

The table of expenses for 2004:

Food	20.000.000 dinars
Medicines	5.000.000 dinars
Sanitary materials	2.500.000 dinars

Inmates' requests for medical examinations are written on a piece of paper and collected by the prison staff. They hand it to the medical service. These requests are not recorded. All requested examinations are performed on the same day. Every prisoner has an individual medical file, which is opened upon her admission to the institution. Medical treatment is provided with the prisoner's consent, so if in case a prisoner refuses a treatment, she has to confirm this in writing.

In case of a prisoner being physically attacked by an inmate or prison guard, the medical service is obliged to inform the prison administration. Before being placed in a punishment cell every inmate has to be examined and the practitioner has to give an opinion about her health condition. Practitioner's decisions are written down in the disciplinary book. Inmates placed in a punishment cell are checked daily.

The prison employs a general practitioner, an epidemiologist and two nurses on a general basis. The general practitioner controls meals daily. A gynecologist and a psychiatrist visit the prison two or three times per month.

The section for pregnant women and babies is situated in the medical unit. The institution has no pediatrician, but children can be taken once a month to the city hospital. Pregnant women can go to the city hospital to have examinations and to give births. There is a legal provision stipulating that a female prisoner can postpone her sentence for 3.5 years (from the fourth month of her pregnancy until the baby is three years old). However, if a woman refuses this right, she can stay in prison with her child until it reaches the age of one (*LECS, Article 94*). Two women the delegation spoke to had not postponed their penalties, as their sentences were not so long.

There are special programs for inmates wanting to stop using drugs. A neuro-psychiatrist and the general practitioner work with them. The prison staff is trained in dealing with HIV-positive prisoners.

1.6.6. Work in the prison

Upon admission to the prison, the practitioner decides if an inmate is capable to work or not. Pregnant women and mothers do not have to work. Prisoners get engaged in external jobs, but these do not include private businesses, and are always temporary. Two years ago, it became forbidden to make contracts with private enterprises. As a result less than 50% of prisoners work now. Work in the prison is not compulsory.

The correctional services and services for employment decide who can work, but they usually try to ensure work for all inmates. Prisoners work in shifts. According to the law, “*the compensation is 20% of the minimal market price of the work in the Republic of Serbia*” (*LECS, Article 83*). 70% of this salary is given directly to the prisoner, while 30% is paid into her bank account.

Types of work:

a) *Sewing* – the majority of women work in the sewing room. The institution can teach them, but it does not have right to issue any diploma or certificate, because the prison does not dispose a special license to educate. To obtain this license, the prison administration would have to pay registration fees and hire a special teacher. The prison does not have enough money for this, however.

Members of the IHF delegation managed to speak to inmates in the craft room. The conversation did not take place in private though, as guards refused to leave the room. Women here were at the time engaged in embroidery, crochet and sewing of suits for the city dance club. They did not complain about anything, but the delegation suspects that it was caused by the presence of guards.

b) *Agricultural activities*: Some of the inmates are engaged in agricultural activities as the prison owns two pieces of land; one near the prison building and another in Zabela.

c) *Cleaning*: Four inmates work as cleaners in the city library.

Prisoners' behaviour and their record play an important role in the decision-making process. If a prisoner is a good worker, she can be awarded holidays or get to go home for a few days, receive additional parcels or receive extra visits (*LECS, Article 104*). The regime can also be changed to a lighter than the one decided upon admission. The prison governor decides this and his/her decision is not subject to a judicial review. Nevertheless, there have been cases of rewarded prisoners not returning from leaves.

1.6.7. Discipline, punishment and isolation

The LECS also regulates issues concerning breaches of discipline (*Article 116*). A prisoner who has breached discipline may be punished by a reprimand, withdrawal of her privileges, solitary confinement, or transfer to stricter regime (*LECS, Article 117*).

There are two segregation rooms for solitary confinement purposes in the prison. They are not used very often. A prisoner cannot stay longer than 15 days in a segregation room. In cases of accumulation of disciplinary offences, confinement in a solitary cell could be increased to 30 days (*LECS, Article 121*). However, the delegation was told that this does not happen. The cell measured 1x2 square meters. It was equipped with a toilet and a sink, located near the bed. Access to light (natural and artificial) and heating was insufficient. Inmates can sit on the bed during day-time. Previously, beds used to be fastened to the wall, but such practice has been abandoned. Prisoners are allowed to walk for two hours every day. Meals are served in the cell.

If a person rewarded with a leave does not return, she can be punished and placed in a segregation room.

1.6.8. Use of force and arms

The law allows for the use of force (physical force, use of truncheon, use of instruments of restraint, etc.) (*LECS, Article 137*), in order to “prevent an escape from an institution and during convoys, as well as for the purposes of preventing a physical attack, injuring, causing a material damage or surmounting a resistance of prisoners in relation to lawful order taken by an official” (*LECS, Article 136*). The prison staff is equipped with truncheons, but the chief officer is not. Last time the truncheons were used, was in 2003.

1.6.9. Activities

The day in the prison begins at 05:30 a.m. At 09:30 p.m. lights are switched off. Inmates who do not work are allowed to watch TV, read books, or stay in so-called club rooms.

The prison library is quite large and contains about 35000 books on different topics. There are also books in foreign languages. Inmates work shifts in the library. On the working days, the library is open from 10:00 a.m. to 02:00 p.m. and from 04:00 p.m. to 06:00 p.m., while on Saturday it is open from 10:00 a.m. to 03:00 p.m. Women from open and semi-open units can easily visit the library, whereas those from the closed unit may only visit the library with a guard. Prisoners punished with solitary confinement can order books during their stay there.

Inmates interested in legal issues can obtain only the ‘*Law on Execution of Criminal Sanctions*’. The choice of religious books is rather limited, as they all deal with orthodox religion only. The administration explained to the delegation that they had not received requests for books on other religions. There is no chapel in the institution but instead a classroom which is used whenever a priest comes to visit.

1.6.10. Contacts with the outside world

The number of visits that an inmate can receive depends on her regime. Prisoners in the closed units are entitled to only one visit per month, those under a semi-open regime two visits per month, while women placed in the open unit have the right to receive four visits every month (*LECS, Article 68*). The same rule is applied for parcels (*LECS, Article 74*). The visits last no longer than an hour (*LECS, Article 71*). Prisoners may receive extra visits as a privilege but this depends on their behaviour.

An inmate has the right to be visited by a spouse or children once every three months in the special rooms (*LECS, Article 72*). Such a visit can last maximum three hours.

The delegation was told that long meetings could be organized with any person, but this requires the prison governor’s permission. The room intended for long visits is in a separate building, near the administrative unit. It is equipped with soft furniture. There is also a kitchen (presently under reconstruction), a toilet and a shower. Visitors are requested to bring their own bedding. The copy of the *House Rules* is from 17 September 2004.

Prisoners from all units can receive a visit from their lawyer in a room that is monitored. The prison canteen is not far away from this room. Additionally, there are meeting rooms, controlled by the administration, where inmates can meet the lawyer and relatives. These rooms are equipped with tables and chairs.

The number of telephone calls that a prisoner is allowed to make depends on their regime: Inmates from open and semi-open units can use the telephone any time they want. There are two telephone boxes in the lobby and they work by inserting a phone card, which can be bought in the prison. Inmates from the closed unit are allowed to make two calls per week, 15 minutes each. Usually, the conversations are not taped. However, it is possible to tape it if the administration decides so. There is a hairdresser's in the institution, in which some of the inmates work. The services of a hairdresser are free of charge. There is all necessary equipment in the room.

There is a prison's theatre in the building of the closed unit. Any inmate can engage in work there. The theatre has a stage and a large hall adapted for a large number of persons. The theatre hall is also used for different concerts organized by the church and city choir, who performs for free. The prison also has an aerobic-room, but it was told that this gets used only rarely. This room was rather poorly equipped with only floor-mattresses and several dumb-bells.

1.7. Visit to the Penitentiary Reformatory in Niš

The IHF delegation visited the penitentiary reformatory in Niš on 30 May 2005 and spent the whole day there.

1.7.1. General information

Adult male persons who have been sentenced to stay for one year or longer for non-negligent crimes will, upon decision of the prison administration, usually be sent to a penitentiary-correctional facility like the prison in Niš. The Director of Administration, who is the head of the National Prison Administration, and is appointed by the government and subordinated to the Ministry of Justice, mostly respects the territorial principles of the courts. There are no appeal opportunities against or judicial review of this decision but the convict can request his transfer to another institution.

The budget for 2005 amounts to 106 million dinars (approximately 1.262 000 Euro). This also includes reconstruction costs. The maintenance costs for the prison are 5 Euro per inmate a day.

1.7.2. Categorization and segregation of inmates, and its purpose

There were 956 sentenced inmates in the prison on the day of the delegation's visit. Out of these, 819 inmates were placed in a closed, 109 in a semi-closed and 28 in an open regime. About 80 inmates within the closed ward were under increased supervision. The prison also has a section for detainees. Some of the 101 detainees were placed in a unit of the prison in Pirot.

The census that took place in 2002 shows that 1.4% of the entire population declared their ethnicity as Roma. The proportion of Roma prisoners significantly exceeds their proportion of the population in Serbia. According to the received information, 76 prisoners, constituting 8,65% of all sentenced inmates in Serbia, are Roma. A little under half of these are placed in Niš.

Increased supervision may be ordered if a prisoner is dangerous for other inmates, for preventive reasons, or for an inmate's own safety. It may last up to two or three years. The length is, however, not limited by the law. The convict may submit a complaint against the decision to the governor of the prison or to the Director of the Administration. Inmates who are placed in the open regime can leave the prison and move uncontrolled around the city.

Upon arrival, a convicted person is directed to the section for personal examination, where he is kept for no longer than thirty days. During this period, the prison governor will decide which type of educational group is appropriate for the convict (*LECS, Article 53*). The governor's decision is based on the type of the convict's "criminal offence, his personal characteristic, procedural programs and other facts" (*LECS, Article 54*). The decision cannot be challenged by the convict, but the governor can, depending upon the behavior of the convict, transfer him into a lighter or a stricter regime. The classification is usually revised every year, but it is not regulated by the law.

1.7.3. Material conditions and hygiene

The *LECS, Article 58* states that "the rooms in which convicted persons live and work must be of sufficient space that each convicted person has, at minimum, eight cubic meter of space". According to this rule, it was informed that there was no overcrowding in the prison in Niš, but the delegation's impression did not support this statement. The estimated free area of movement for an inmate in the rooms was between one and two square meters.

The prison has three pavilions (A, B and C) where inmates are placed. These pavilions are separated from one another. The medical unit, the ward for solitary confinement, the pre-trial detention unit, and the increased security ward with special supervision are placed in a separate building that is also part of the prison complex.

1.7.3.1. Increased security ward

The prison in Niš is a "penal correctional facility" (*LECS, Article 10/1*) where the majority of inmates are under a closed regime. However, around 80 inmates are placed in the increased security ward "because of their criminal past or bad characteristics (they) could have a bad influence on others" (*LECS, Article 54*) and therefore they shall be separated from other inmates. An inmate can be placed in this unit upon decision of the prison governor, if the inmate i.e. is dangerous for others, starts a fight or tries to escape. A convict can also apply to be placed in the special unit, if he is concerned for his own security. The longest period that a prisoner had spent in the closed ward until know was two or three years. There is no periodic review for the stay in the closed ward. The convict can complain against the governor's decision either to the governor or to the Director of Administration, but there is no mandatory procedure on complaints and there is no legal obligation for revision of the decision.

The increased security ward is on the third floor of the mentioned building. The cells in this ward were overcrowded and with almost no access to fresh air. In many cells were placed two or three convicts, though the cells were meant for one person only.

One of the inmates had previously been placed in the semi-open regime, but because he had left the prison without a permit he had been placed for 15 days in a solitary confinement. Allegedly, he threatened somebody while he was in the city. After having served his punishment, he had not been allowed to return to the semi-open unit, but had been brought in the increased security ward. As it seemed, he had been placed in the increased security ward for unknown period of time.

The other convict the delegation spoke to, had tried to escape, and had now been for five months in the increased security unit. He had not been told for how long he was to stay in the unit. He had been in prison since 1996, and for periods of that time beating had been an every day practice in the Niš prison. The situation had improved over the last few years. His parents and brothers lived far away, and did not come to visit him.

The governor informed that the convicts in the increased security ward were allowed two hours of open air exercise during a day. The inmates on the other hand, claimed that they could usually only spend half an hour outside their cells daily. They could have a shower once a week, but on the third floor the water pressure was often not sufficient for the showers. When this occurred, they could only use the tap inside their cells for body washing. The inmates informed that the bathroom had been very cold during the winter.

In the third cell, the delegation met an inmate who was infected by Hepatitis B. He was alone in the cell and complained of this. He said that he couldn't infect cellmates simply by living in a same cell.

Convicts may be handcuffed either for the purpose of transportation or to prevent them from self-mutilation. They shouldn't be handcuffed for any longer than 48 hours.

1.7.3.2. Pavilion B

Pavilion B is available for prisoners who are allowed to leave their rooms. During the daytime they can also go out and spend time in the courtyard.

Though the rooms of the pavilions are big, they are still overcrowded. One of the rooms measures about 48 square meters, and has 21 beds. At the moment of the visit, there were 18 convicts placed in this room.

Another room on the first floor has 30 beds and approximately 60 square meters. A second room has 45 square meters and is conceived for 20 convicts. The bathroom, with toilets and a shower, is placed in the corridor, and the convicts can go out of their rooms also during the night. Bathrooms in pavilion B are in bad state of repair, with pipes leaking and toilets leaving an intense stench.

At 07:00 p. m., the guards leave the corridor and close the door. After the guards leave, the night is ruled by the strongest and richest inmates. The delegation met a prisoner who spoke fluent English and allegedly had studied in Great Britain. He had been sentenced to ten years for manslaughter. The prisoner said that the situation in the prison was reflecting the situation in the country. *"With some money, you can buy everything you need. A cell phone, for example, costs 50 Euro"*, he said and added that he had been four times in the solitary confinement because he had been caught having a mobile phone. *"For some money you can also buy extra visits. And for 30 Euro the medical staff will even bring you heroin. About 20-30 inmates in the pavilion, out of 160, are drug addicts. The poor and the weak have to serve the rich and the strong"*.

On the wall, among the usual erotic pictures, there was a printed photo of the war criminal, general Mladic. After a member of the delegation asked why this picture was on the wall, the English speaking inmate answered that they adored Ratko Mladic, and added that they all respected him as a national hero. He informed that in the prison were also Albanians and Muslims, but that they didn't get harassed. He stated that only gays were hated and punished.

1.7.3.3. Medical unit

There is a medical facility inside the prison with five rooms and 17 beds. If an inmate cannot be treated in the prison, he will be hospitalized in the Niš Clinical Center or in the Belgrade Penitentiary Hospital.

Most of the medical equipment is in a bad state of repair. The X-ray equipment is out of use, and there can therefore be no screening for TBC. There had been a case of acute TBC, and the patient had had to be transported to the Correctional Penal Facility, Prison Hospital, in Belgrade where he had been healed and brought back to Niš. After he returned to the prison, the administration had not separated him from the other inmates.

The psychiatrist visits the prison twice a week. He tests the new inmates after they have spent one month in the admission unit. The test results are used, among other things, for classification of the inmates.

The dentist's office is better equipped than the other offices in the medical unit. The dentist can execute smaller dental surgeries, extractions, fillings, different treatments and orthodontic work.

Medical staff works in shifts. During the night shift there is always one doctor and one technician present.

1.7.4. Nutrition

A new kitchen was installed in the prison after the old one got destroyed during the prison riots in November 2000.

A convicted person is entitled to have three meals per day “*whose total content must not be under 12500 joule*” (*LECS, Article 61, Para. 1*). The prison spends 1 Euro per capita a day. Because of the prison’s agricultural production, the inmates are provided with nutrition that is better than the minimum prescribed by the law.

Those who work in heavy labor should obtain additional food. Sick persons have the right to a diet that is ordered by a physician (*LECS, Article 61, Para. 2*). The doctor can prescribe a special diet for some inmates but this diet does not differ very much from the regular nutrition. Though there are no legal regulations for religious requirements, the governor said that religious rules are respected and that the inmates who practice Islam do not receive pork meat.

Meals are prepared in the prison’s kitchen by a professional cook and under the supervision of the medical service. Weekly menus are approved by the prison governor. People can receive food parcels and buy coffee, milk, fruit and meat products in the canteens that are placed in every pavilion. The possibility to buy additional food underlines even stronger the differences between working and non-working inmates and between those of poor and rich family backgrounds.

1.7.5. Medical care

Before admission to the prison, newly arrived prisoners are examined by a doctor immediately upon arrival, or the next morning if admitted after 10:00 p. m. A medical file is opened for each new inmate. Upon admission, lab tests for blood and urine are made. There is no TBC screening for inmates, as the X-ray equipment is out of work. A HIV test can be ordered only if a convict belongs to a group of risk, such as drug addicts, homosexuals and promiscuous persons. HIV positive convicts are not separated from the others.

If there is a sign of any violence or if a convict complains about ill-treatment, the doctor is obliged to inform the governor. The doctor is not entitled to report directly to the prosecutor.

All medications in the prison are free, and there is no shortage of basic medications. One doctor and one nurse are on duty during the night at the medical unit. In case of emergency, a convict can be transported to a hospital even at night.

A doctor will examine a prisoner who is punished with solitary confinement to check if he is fit for the isolation. If necessary, the examination will be repeated during the confinement. A working inmate who tries to simulate an illness will receive a disciplinary punishment, but this does not happen very often. The health inspection authority, subordinated to the Ministry of Health, controls the hygienic situation regularly.

In 2005, two death cases had been registered in the prison - one of these was of a prisoner who had been brought to the Prison Hospital in Belgrade, and the other was of a 85 year old man who had been serving his sentence in the prison in Niš.

A doctor employed by the prison service receives a salary of 450 Euro a month.

1.7.6. Work in the prison

A small percentage of the inmates work in the agricultural unit of the prison, which contains some farmland. The rest are engaged working in a factory producing boilers, stoves and couches. Most of the machines the prisoners use in their work, are old.

“A convicted person capable of working has the right and obligation to work” (LECS, Article 76). This means that all prisoners who reject working will be punished. However, the prison administration is not able to provide work for all inmates. As there is less work than earlier, the work can be seen as a privilege. Out of the 819 convicts placed in the closed regime, 260 had been selected for work by the educators, while all the inmates (137) from the semi-open and the open regime worked. That means that 397 of the 956 convicts (41.5 percent) in the Niš prison worked.

The compensation for work within the regular working hours (forty hours per week) is at least 20 percent of the minimum wage (LECS, Article 83) but the governor can reward the convicts with a higher amount of money. The highest amount of compensation is ordered by the Director of Administration.

The inmates in Niš receive a compensation that is in average of 30 percent of the minimum wage (at the time being 7000 dinars, or 83 EURO). “A convicted person shall have on his free disposal 70 percent of the compensation (...) the remainder shall be placed in his saving account” (LECS, Article 85). A convict may receive an unlimited amount of money from other sources, but his monthly expenditures may not exceed the average wage in Serbia. “The work of a convicted person is not to be counted in his years of service” (LECS, Article 82). “A convicted person who attends general or vocational education classes shall work proportionately fewer hours” (LECS, Article 81).

1.7.7. Discipline and punishment

The governor can reward good behavior and/or hard work of an inmate. As a privilege, the governor usually grants an inmate more rights. He may receive more parcels, more visits, more visits in a special room or more visitors. The highest privilege is to be allowed to leave the closed institution and visit the family on weekends or during holidays. He can also receive an annual seven days leave from the facility as a reward or can spend his vacations outside the prison (LECS, Article 104).

Disciplinary punishments are reprimand, deprivation of privileges and/or solitary confinement. Deprivation of privileges and solitary confinement can be imposed simultaneously. During and within thirty days after an inmate spent a period of time in a solitary confinement, he is deprived for 30 days his privileges (LECS Article 118). The longest period in a solitary confinement is thirty days, but in case of repeated violation of rules the total length in a solitary confinement can reach up to six months within a year (LECS, Articles 121-122).

The punishment cell the delegation visited, was of about eight square meters and was 2.5 meter high. The cell had a bunk bed with a blanket. During the day, the inmate is not allowed to lie down on the bed. The access of natural light was insufficient, while the artificial light was provided by only one bulb. There was a tap with cold running water and a toilet of Asian type.

A man from Kosovska Mitrovica was placed in a solitary confinement because he had been caught in possession of a mobile phone. He informed the delegation that during the 12 days he had spent in the cell, he had not been allowed to take a shower, even though according to the rules he is entitled to have one shower a week. The guards were otherwise following the rules.

Inmates in the solitary confinement unit are woken up at 06:00 a. m., and at 07:00 a.m. attend the lining up. The breakfast on the day of visit consisted of tea, plus two eggs or sausages. The open-air exercise takes place at noon. On the day of the visit, the prisoner met by the delegation had beans and cucumber salad for lunch. Meat was served three or four times a week. The inmate could see a doctor twice a week. He had been arrested in October 2003 and sentenced to 14 years of prison for murder. At the police station in Belgrade, he had been beaten up. Since July 2004, when he arrived in Niš, he had not been ill-treated. He had spent five months in the increased security ward, but had not been told why.

According to the law, a solitary confinement should be used only for the most difficult disciplinary offences (LECS, Article 119). However, the record of the prison in Niš between 1 January and 30 May

2005 shows that out of 180 punishments, 169 were punishments of solitary confinement. An inmate can be punished with a placement in a solitary confinement only upon a written medical opinion stating that he is able to endure the punishment (*LECS, Article 126*). Against such a decision from a governor or his deputy, the convict has the right to appeal. The appeal must be forwarded either to the governor or – if the appeal was rejected – to the Director of Administration. In 2005, there had been 20 complaints against solitary confinement measures, nine of which had been accepted. There is no judicial review of such decisions by the prison authorities.

1.7.8. Contacts with the outside world

A convicted person may receive visits by the members of his family. Persons who are not family members may visit an inmate only after permission from the prison governor. Inmates under a closed regime are allowed to receive a visit once a month, those under a semi-open regime twice a month, while the inmates under the open regime can receive a visit every week (*LECS, Article 68*). The length of a visit is regulated by the *House Rules*, but it should last no less than one hour (*LECS, Article 71*). Once in three months, a convict has the right to spend three hours with his spouse or children without a direct control (*LECS, Article 72*). Visits of the defense counsel are not limited, according to the law (*LECS, Article 69*).

The regime of an inmate regulates if he receives a parcel once or twice a month or every week.

The use of the phone is not regulated by the law. According to the indoor order in Niš, convicts under the closed regime can make a phone call once a month. The length of the phone call is not regulated. An inmate is not allowed to receive a phone call.

According to *Article 66* of the *LECS*, the correspondence of an inmate is unlimited. There is, however, no legal regulation on whether a letter to/from an inmate can be opened. Nevertheless, all letters are controlled except those that are addressed to/from authorities like the court, public prosecutor, Director of Administration or – in case of foreign citizens – diplomatic or consular representatives of the convict's state. Because of the lack of legal regulations, there is no guarantee that the correspondence with a defense counsel will not be controlled.

There is a special room where inmates can meet with their lawyers. They can contact their lawyer whenever they believe it is necessary.

1.7.9. Activities

There are no education facilities in the prison, as classrooms were destroyed during the riot in November 2000.

Most of the books in the prison's library were also destroyed during the prison riot in 2000. Out of 20.000 books only 3.000 were saved. Each floor has a radio and a TV set.

Prisoners can take open air walks and they can participate in team sport activities.

1.7.10. Inspections

The prison in Niš has been visited two times by the Helsinki Committee for Human Rights in Serbia. In their report the NGO left their recommendations.

1.7.11. Staff

Two officers who are subordinated to the Ministry of Interior work in the prison. They collect confidential information through a network of informers in order to prevent any kind of resistance or crime inside the prison, and to prevent preparation of crimes after a convict is released. The officers forward this information to the police. They communicate their information to the governor only in

case steps must be taken inside the prison. The governor said that no evidence would be requested about this confidential information. This operational work of the officers in the prison is based on the agreement between the Minister of Justice and the Minister of Interior. Such officers work only in the big national prisons, not in the county prisons.

The medical unit of the prison has 16 employees: Five medical doctors, one dentist and 10 nurses. External specialists like an ophthalmologist, a radiologist and an otolaryngologist visit the prison regularly, while a psychiatrist pays a visit twice a week.

A serious problem is that of the corruption of badly paid personnel. Though one convict had been punished four times for having a cell phone, no investigation had been made to find the corrupt officer(s) who had helped him get these phones. The prison governor informed the delegation that there were hardly ever disciplinary procedures against officers who might have been involved in a corruption. Secret investigation work of the inmates does exist, but it does not exist against the personnel, the manager confirmed.

1.8. Recommendations on the Ministry of Justice facilities

General recommendations:

- The IHF delegation recommends that the government of Serbia take steps to fight corruption in the prisons. All inmates need to have better material conditions, without the exchange of any favors or financial contributions.
- Urgent steps should be taken to improve the material conditions in the cells, especially the disciplinary cells and those for life-sentenced prisoners. The cells should be larger, with better access to natural light, heating, ventilation, bedding and furniture.
- The IHF delegation strongly recommends that the prison staff and the authorities make use of all the means at their disposal to prevent inter-prisoner violence and intimidation. The authorities must guarantee assistance to the victims of such events and conduct prompt and impartial inquiries.
- Existing procedures for dealing with cases of torture and ill-treatment should be reviewed in order to ensure that whenever injuries recorded by a doctor are consistent with allegations of ill-treatment, the information is brought to the attention of the relevant authorities.
- Medical services in the institutions of the Ministry of Justice should be integrated with the national health care system. It is necessary for the doctors and other medical staff to be under the supervision of the medical authorities only, in order to allow the fulfillment of their duties as medical professionals.
- Special measures should be taken to increase the number of inmates engaged in purposeful activities in the prisons. All possibilities regarding the engagement in purposeful activities of the detainees in the investigation detention facilities should be explored.
- The IHF delegation recommends that positive measures be taken in order to improve the conditions for visits. A timetable of the visits should be organized in a way that would avoid overcrowding of the visit room. This would improve the communication and the atmosphere of the visits.
- The IHF delegation recommends that correspondence be checked on an individual basis with a judicial warrant only when there are indications of a security breach and threats to the rights of others. Special measures should be taken to guarantee the confidentiality of prisoners' correspondence with their legal defenders.
- One hour of daily outdoor exercise is a minimum standard. The IHF delegation recommends that measures be taken to guarantee this to all prisoners – both remand and sentenced – and in all facilities, including the investigation detention facilities.
- Sanitary facilities in the prisons should be thoroughly renovated. The IHF delegation recommends to the authorities to guarantee the access to running water in each cell.
- Disciplinary confinement and all administration of isolation should be imposed by an independent body with due process guarantees. The prisoners should have the right to appeal such measures effectively.
- The government of Serbia should establish a system of regular and effective inspections to the places of detention. Serbia should consider ratifying the Optional Protocol to the UN Convention against Torture.

District prison Belgrade

- The district prison in Belgrade is seriously overcrowded, and there should be found a way to solve this problem. In some of the cells, measuring only 20 square meters, twelve prisoners were placed and they were sleeping on bunk-beds.
- Overcrowding has a serious impact, not only on the material conditions for everyday cell organization, but also on the opportunities to benefit from walks outside and on opportunities to take part in meaningful activities. According to the LECS (*Article 59*), the detainees and prisoners should be allowed to spend at least two hours outside the cells, but due to the overcrowding - as the delegation was told by staff and many detainees - they have only fifteen to thirty minutes of outside walking per day. During the weekends, the detainees and prisoners are not allowed to leave their cells at all because of an insufficient number of staff present.

The prison administration should find a way to solve these problems. Also, because of the lack of space for daily walks due to the overcrowding, the walks for some of the inmates should be postponed to at least after breakfast.

- One of the major problems in the conception of this institution is that the prisoner cells were conceived in a way that does not provide access to natural light and fresh air. The cells are very cold in the winter and hot in the summer. The administration should find a way to improve the isolation of the cells.
- Heating bodies are placed only in the corridors, so that the cells are very cold during the winter.
- Due to the overcrowding in the cells, some prisoners are asking to be placed in solitary confinements, which are not even appropriate for the purposes of punishment, let alone for a longer stay. The prison government plans to transform some 80 of these cells into larger cells by removing the walls. Until then, the detainees are expected to continue living in inhumane conditions. Steps should be undertaken as soon as possible, to improve the living conditions of the inmates.
- A solution should be found and plugs installed in the cells, so that prisoners who are not working have at least the opportunity to watch TV.
- Quality and quantity of food for juveniles should be improved.
- When there are suspicions of ill-treatment, the doctors should not only record the information, but also notify the prison governor and prison administration, and not wait until/if the victim lodges a complaint.
- All written correspondence of detainees - private or official, including letters containing complaints - is given by detainees, without envelopes, to prison officers, and then transferred to courts. The content of complaint letters is easily accessible to prison personnel, which makes it extremely difficult for the detainees to raise complaints.
- A legal provision should be made that would regulate the confidentiality of the correspondence between prisoners and their lawyers.
- Another matter of concern is the lack of external control over prison institutions. Bodies independent from the Ministry of Justice should be established to oversee the prison establishments.
- *Article 74* of LECS states that a prisoner is entitled to a minimum visit time of one hour. On the contrary, the visits for the prisoners in the district prison in Belgrade last only 15 minutes. This is against the Law on Execution of Criminal Sanction and international standards.
- Although the staff of the so-called “educational center” of the Belgrade district prison claimed that there were some sport and cultural activities organized for sentenced prisoners, this did not seem to be the case. If they did exist, however, they were insufficient. The administration should organize more meaningful activities for the prisoners placed in the district prison.
- Prisoners of all confessions should have the right to access their religious representative.
- The number of guards in the district prison in Belgrade should be higher, in order to improve their working conditions. This improvement will also result in a better atmosphere among the guards and detainees/prisoners.
- A better solution should be found regarding the present accommodations of guards’ families.

Correctional Penal Facility "Prison Hospital", Belgrade

- The level of overcrowding in the hospital is so high that it results in an inhumane treatment *per se* and should be appropriately solved as soon as possible.
- There is a need for recruitment of adequate medical, nursing and technical staff, as well as of a provision of appropriate premises, installations and equipment.
- There is an urgent need to increase the living space per patient, secure enough and adequate lighting, heating and air circulation. The institution must ensure satisfactory hygiene requirements.
- The time that the patients spend in open air should be increased.
- The institution must secure a separate room for those patients who must be isolated and/or tied up, and equip it properly.

Penitentiary Reformatory for Juveniles in Valjevo

- The institution should be helped to raise financial resources in order to continue the renovation work and to broaden the scope of the education in the prison;
- The regime of increased security, which is applied in some cells, does not allow the inmates to engage in any useful activities, so that they spend several months, or even years without satisfactory opportunities for exercise, except for a 30 minute daily walk, which is even less than is granted by the law (*LECS, Article 274*). The administration of the prison should enable the inmates to engage in some useful activities while spending their time in the cells of increased security.
- There is a placement of minors and young adults (at the time of the visit, up to 27 years of age) in the same institution. Though the juveniles are placed in separate units, they work and spend free time together with older inmates, which makes them vulnerable to different forms of abuses.
- The governor has a very broad scope of discretion, as he can decide whether to grant a prison leave, place a prisoner under a strict regime and continue this regime for a long period of time, and suspend the education of a juvenile if he believes that it harms the fulfillment of the correctional measures. This discretion should be narrowed and made subject to control.
- The delegation observed a lack of judicial control over the decisions that were made by the prison administration. This should be improved and precisely formulated.
- The lack of a meaningful education for minors needs to be addressed more effectively. The inability of different governmental authorities to communicate with each other has greatly hampered this process in the past.
- Juveniles placed in the institution should be ensured an opportunity of computer literacy.

Penitentiary Reformatory in Požarevac

- The most serious concern refers to the placement of a prisoner in a particular regime by the single state official – the prison governor. This constitutes an unclear mechanism, which ought to be revised by the Serbian legislators.
- The administration should make its best effort to ensure that all the prisoners get acquainted with the prison's house rules. The information about the house rules should be distributed by the administration.
- The conditions in the "passing room" are unacceptable, as the inmates placed there have not been proven guilty and should not have to await their sentencing in a room resembling a punishment cell.
- Some of the beds are too close to the ground. Instead of the prescribed 30 cm, the delegation measured only 25 cm from the ground.
- The inmates in the strictly closed unit should be allowed to get involved in additional activities, other than the daily one-hour walk.
- The illumination in some of the cells is insufficient, and should be improved. Some cells have only 30 lux (provided by natural light) instead of the recommended 500 lux.
- A definite solution should be found to avoid overcrowding in some of the buildings and some of the cells.
- The toilets in the cells of Pavilion 7 need to be modified to offer more privacy.
- The inmates should be granted the right to invite a medical specialist of their own choice with no interference of the administration.
- Medical data of the inmates must be protected in accordance to the law.
- The inmates should have a legal right to appeal to the court regarding their punishment.
- The control of inmates' written correspondence to private persons and official institutions is deeply inappropriate and inadmissible.
- The facility must provide inmates with everything that is necessary for the maintenance of their personal hygiene. Furthermore, the inmates in the admission unit should be provided with toilet articles, instead of being dependent on their families in the matter.
- It is unacceptable that the premises where food is prepared and served are dirty. The prison's bakery and kitchen are in a very bad condition, and require major renovation.

- Although both the quality and quantity of the food are on an acceptable level, special measures must be undertaken to control the parameters of the preparation of the food and check them by the internal medical service and an independent external state body.
- The physician should regularly visit the strictly closed unit and solitary confinement unit.

Penitentiary Reformatory for Women in Požarevac

- The prison administration should revise the practices according to which the prisoners are obliged to wear uniform.
- Cameras in the dining room and in the club room in the closed unit should be removed, as they violate the right to privacy.
- The IHF delegation noticed that the book of medical records does not contain patients' signatures.
- The medical staff should compile regular statistics concerning injuries observed, and the record of injuries should be made available to the injured prisoners.

Penitentiary Reformatory in Niš

- The most serious concern of the delegation is the unlimited power of the prison authorities. The real execution of the court sentence depends only on the prison authorities. They can decide whether a term can be served in an open regime, in a closed regime, or for a major part of the sentence even in an increased security ward. The inmates do not have any effective remedy against an unjust decision of the prison authorities.
- The other concerns are the consequences of the so-called "liberal" system. On the one hand, the inmates can move freely in the pavilion and in the courtyard, which is positive. But on the other hand, because of the lack of the guards, the inmates can rule over each other, and thus, violence among inmates is an everyday practice. As a result, many inmates are completely defenseless against the stronger, richer, and more violent criminals and members of the prison gangs.
- One of the serious problems is the corruption of the badly paid personnel.
- Funds must be secured to renovate toilets, bathrooms, and sanitary installations.
- The control over the legality of the prison regime should be tightened.
- The prisoners should be allowed to take longer phone calls.

2. Ministry of Health facilities

2.1. Background to the procedure under the Law on Healthcare in the Republic of Serbia and the Law on Non-Litigation Procedure of the Republic of Serbia

Introduction of Serbia's new law on the protection of persons with mental disabilities is still in process. Although the text has been redrafted 19 times, a final draft has not been submitted to the parliament so far.

At the time being, two acts plus the following articles are regulating the issue of involuntary placement of citizens who have committed a criminal offense in the psychiatric institution: *Article 63 on Criminal Code, Article 506 on Code of Criminal Procedure, and Articles 188-196 on the Law on Execution of Criminal Sanctions.*

According to *Article 63 of the Criminal Code*, the security measure of compulsory psychiatric treatment and confinement in a medical institution may be imposed on a mentally ill person of complete or diminished mental capacity who has committed a criminal offense in a state of insanity. The main factor that leads to such a security measure is that the convict represents a danger to his surroundings and that treatment of this kind is necessary in order to avert this danger. This measure is imposed by the court.

Article 19, Para 5, of the Law on Healthcare in the Republic of Serbia defines preconditions and procedures of the civil commitment. This article states: “*When a psychiatrist, i.e. a neuropsychiatrist, assesses that the nature of a patient’s mental illness is such that it may jeopardize his/her life or the lives of other persons, the psychiatrist, i.e. the neuropsychiatrist, may recommend the patient’s hospitalization, while an authorized medical doctor in an appropriate in-patient institution may admit the patient without his/her consent, provided that within 24 hours after the admission, the institution’s consultative body decides whether or not the patient should be kept in the institution for medical treatment*”. This is the only article which prescribes the rules of involuntary placement and medical treatment in a specialized institution for a person who has not committed a criminal offense.

Article 18 of the aforementioned law defines citizens’ rights to healthcare and, among other issues, states that a citizen is entitled to be “*accurately and duly informed about the state of his/her health*” (*Para 1, Item 2*), “*informed about the possibilities of being medically treated in keeping with modern medical standards, as well as about possible risks and consequences of medical treatment*” (*Para 1, Item 5*) and “*accept or refuse the proposed treatment in writing*” (*Para 1, Item 6*). No single article of the law denies such rights to a patient involuntarily hospitalized in a psychiatric institution. Therefore, all these provisions undoubtedly also relate to the patients of such institutions.

The *Law on Non-Litigation Procedure of the Republic of Serbia* establishes the procedure of the “*hospitalization in the institution dealing in neuropsychiatry*”. Namely, in non-litigation proceedings the court decides on a person’s involuntary detention in a psychiatric institution. Unlike the *Law on Healthcare*, defining the preconditions for hospitalizing a person in a psychiatric institution, the *Law on Non-Litigation Procedure of the Republic of Serbia* has only a vague provision function on how to define such detention. It states as follows, “*A court of law decides on a mentally ill person’s detention and hospitalization in an appropriate medical institution when the nature of that person’s illness necessitates limited movement and communication with the outside world*” (*Article 45, Para 1*).

“*A medical institution admitting a person without his/her consent is obliged to inform a court of law about involuntary hospitalization within 3 days from the day of admission. Such cases are under the jurisdiction of local courts*”. (*Law on Non-Litigation Procedure, Article 46, Para 1*)

“*A court of law may decide on involuntary hospitalization in the proceedings instituted to assess a person’s competence to make his/her own decisions when such hospitalization is necessary to assert this person’s mental state, i.e. for securing expertise. Such hospitalization shall not exceed the period of 3 months*” (*Law on Non-Litigation Procedure, Article 38, Para 1*).

No due process guarantees are envisaged in this procedure, such as personal appearance before the court, the right of defense, the right to cross-examination of witnesses, and the right to alternative medical expertise.

A person can also be voluntarily hospitalized in a psychiatric institution. His/her consent must be submitted in writing before an authorized official of an institution in the presence of two competent and literate witnesses. These witnesses could consist of personnel, relatives, spouse of the person that is voluntarily hospitalized, or a person who has led the individual to the institution.

If a person withdraws his/her consent, a medical institution is obliged to notify a court of law about the case, and begin proceedings on involuntary hospitalization, provided that the institution's authorized official considers that the person should be detained in the institution.

Though *Article 34, Para 2* of the *Law on Non-Litigation Procedure*, defines the procedure as an urgent one, *Article 50* of the same law states that the court decides on a person's detention in the medical institution, in the term of 15 to 30 days from the day it receives the notification. *Article 49* and *Article 38* of this law, state that at least two appropriate specialists should examine the person prior to the court's decision. The law allows that a person can be examined by specialists working for the institution in which he/she had been hospitalized. *Article 38* prescribes that specialists should formulate their opinion about a patient's mental health and his/her opinion on the reason of the illness.

If the court decides that a person should be detained in the institution, it determines the duration of such detention, which, in any case, cannot exceed one year. A medical institution is obliged to submit periodic reports to the court regarding the detained person's health condition. The law does not define neither the number of such reports nor the intervals in which they should be submitted to the court. At the request of a detained person, his/her guardian or temporary legal counsel, as well as ex officio, the court may decide on the persons release, provided that his/her state of health has improved to the extent of making further detention unnecessary. If the medical institution assesses that a person should be detained for a longer period than that appointed by the court, it must submit a proposal for this extension 30 days prior to its expiry. The court considers the proposal under the same procedure. A person, his/her guardian, or a temporary legal counsel may appeal the court's decision regarding involuntary hospitalization, release or extended detention. As the medical institution is not obliged to provide the detained person a copy of the court's decision, it remains unclear how such a complaint can be lodged. Furthermore, the deadline of 3 days from the day the decision is received is insufficient. A higher court is obliged to decide on the case within 3 days from the day the complaint is lodged.

Rights and duties of the persons involuntarily hospitalized in a psychiatric institution are not defined by any other laws or by-laws.

2.2. Visit to the Psychiatric Hospital in Gornja Toponica

The IHF delegation visited the Special Psychiatric Hospital in Gornja Toponica on 31 May 2005 and spent the entire day there. The delegation spoke to the director of the institution, Milan Stanojkovic, and the hospital's staff. The delegation was allowed to visit all wards and look into the hospital's documentation.

2.2.1. General information

The complex of the Psychiatric Hospital is located in Gornja Toponica, a small village 20 km from Niš. The hospital is under the authority of Ministry of Health. It was built in 1927 and renovated five years ago. Windows and roofs of most of the wards have been replaced, while the psycho-geriatric ward was completely renovated. The wards are placed in several small pavilions and are surrounded by a big yard. The yard is nicely maintained and has grass lawns and benches. There is no special

room or area for religious purposes of any kind. However, there is a plan to build a facility for this in the village.

Many patients in the unit for longer treatment are hospitalized for social, and not medical reasons, so that partly the hospital unofficially acts also as a social care home.

2.2.2. Categorization and segregation of patients, and its purpose

On the day of delegation's visit, there were 701 patients in the hospital: 231 women and 470 men. Out of these, 86 were there on a voluntary basis and 615 on an involuntary basis. There had been 324 court decisions for the involuntary placements, while the rest of these patients were in the hospital without any court decision. From 13 March to 31 May 2005 there had been 377 admissions, out of which 291 (77%) had been on an involuntary basis.

The director did not know the exact capacity of the hospital, but he informed the delegation that the number of patients had decreased since 1993 when there were 1303 hospitalized patients. At the present day, the number varied between 680 and 710 patients per year. The director also did not know the exact numbers of committed patients, voluntary or involuntary. For a voluntary placement two witnesses must sign a declaration stating that the patient voluntarily agrees for a hospitalization. They should, however, neither be related to the patient nor be his or her friends. Some of the staff members the delegation spoke to explained that it is easier to keep a person as an involuntary patient than as a voluntary one.

The delegation has not received any information on how many patients were on guardianship. There were, however, no guardians from the hospital.

Some of the patients in the ward for longer treatment are hospitalized for social and not for medical reasons. Therefore, the hospital unofficially acts also as a social care home, even though these patients should either be returned to their families or transferred, according to their needs, to another institution.

The review of the capacity and the number of patients in each ward on the day of the visit:

Ward	Capacity	Number of patients on the day of the visit
Admission ward for men	65	50
Admission ward for women	45	35
Semi intensive unit men	90	65
Occupational rehabilitation ward	60	45
Psycho-social rehabilitation ward	90	53
Longer treatment for women	115	81
Longer treatment for men	115	80
"A" ward	65	45
Forensic ward for women	65	48
Forensic ward for men	90	73
Internal ward	40	37
Infective ward	40	14
Unit for alcoholism	50	44
Unit for drug addiction	15	5
Psycho-geriatric ward	50	26
Total	1 000	701

The delegation were allowed to see the admission forms that included information on the time of arrival, the diagnosis of the hospitalized patient and whether he/she had agreed to be treated or not.

Members of the delegation could have a look at several personal records of involuntarily hospitalized patients who had been admitted to the hospital without a court decision. One of them had been admitted on 18.01.2005 and released on 30.05.2005, without a court decision. The court decision on his previous hospitalization (11.07.2004 - 15.10.2004) had not been kept in the patient's file but in the office of the social worker. A second patient had been admitted on 24.09.2004, and the court decision had been issued on 24.12.2004, while a third patient had been admitted on 27.10.2004 whilst the court decision had been issued on 24.12.2004. A copy of the court decision had been sent to patient's family.

In practice, a commission composed of a judge and two psychiatrists comes every 1.5–2 months and examines documents summarily. Some decisions are issued later than 30 days after the arrival of a patient. The delegation saw a file on one patient who had been kept for five months after his decision for commitment (valid for one year) had expired. In many cases the hospital releases a patient before the arrival of a judge. Thus they are kept in detention only by a decision of a doctor as the judge does not confirm the detention later. The delegation got the opportunity to speak to the commission that was in the hospital at the day of the visit. It did not seem as if they were interviewing the patients but more as if the judge was rubber-stamping the decisions of the psychiatrists. The judge said that the court in Niš would not manage to deal with the caseload if the procedure became as required by the international law. She also recognized that the court delays the decisions.

There had been 20 registered escapes during the first five months of 2005. In 2004, 120 escapes had been registered.

2.2.3. Material conditions and hygiene

The hospital has six wards that are divided into units: A ward for intensive care (three units), a psycho-social rehabilitation ward (two units), a center for longer treatment (three units), a ward for forensic psychiatry (two units), a ward internal and infectious diseases and an outpatient ward. The outpatient ward is a small hostel within the hospital. This ward is only partly under supervision of the hospital's staff, as most of the patients placed here can take care of themselves.

Some of the patients the delegation met with were dressed in pyjamas, some in old military suits, while the rest were wearing their own clothes.

2.2.3.1. Admission ward

Patients were calm and appeared to be overmedicated. Some of them were trembling. A patient in the female admission ward was naked. One member of the staff informed that patients were not allowed to have outside walks for the first 20 days.

There are four rooms with approximate size of 48 square meters each, with ten to twelve beds and a place to store personal belongings. All windows in the rooms have bars.

The smell of urine was very strong. The toilet had two cabins. One was with a shelf and one was of "Asian" type. Toilets were in a bad state of repair and they smelled badly. Each ward has three showers.

One big room is used for common activities. It has big tables and approximately 15 chairs.

The men's unit has six rooms that accommodate about 50 patients. Most of them were lying in beds at the time of the delegation's visit. A young patient the delegation met was dressed in a torn blouse and a pyjamas, and was barefooted. The bedlinens were clean, and in the rooms were two or three closets for personal belongings.

The unit had been freshly painted, but the toilet room was in a very bad condition and was almost falling apart. Plaster was falling from the ceiling because of the moisture here.

2.2.3.2. Forensic ward

Some of the rooms of the forensic ward, where patients in custody are placed, had 11 beds and some 15 beds. Each room contained around 24 square meters. They were clean, and had good access to natural light. The windows were big and had bars. The bed-linens were clean, and there was no smell in the ward. Some of the patients complained that heating in the rooms was not sufficient during the winter. The rooms had cupboards to store the personal belongings of the patients.

There were some six to seven “Asian” type toilets in each of the wards. They were old, and plaster was falling down from the walls. The taps and the sinks were in a good state of repair. Despite the many patients, each unit had only one shower, and patients could take a shower only once a week.

None of the patients the delegation interviewed knew his or her diagnose or the side-effects of the medication he or she was taking. Some of the patients did not know their legal status. There is a small yard where patients can spend two hours every day. However, one patient in the male unit told the delegation that he didn't go out for walks at all, but did not explain why. In the female forensic ward the delegation saw a patient in a straight-jacket. She was restrained because she had hit the chief nurse. The staff claimed that there were generally not many such cases. The patients mainly attack the personnel when they are prevented from escape.

One third of the patients are allowed to go freely wherever they want. Many patients are engaged in different kinds of occupational therapies. The therapy takes place either in the central occupational ward or in another of the listed wards. Only eight patients were not included in any kinds of activities.

The unit has a special supervision procedure on forensic patients that lasts for a couple of days. Under this period these patients are not allowed to go out, and have to eat in their rooms. However, the female and the male units have patients who are not forensic patients. Actually, only ten out of 50 patients in the women's unit are recorded as forensic patients.

2.2.3.3. Centre for longer treatment

The centre for longer treatment has three units: a male unit, a female unit and a mixed unit. The centre is situated in a two-storey building that is old and partly ruined. The building has an inner yard. The yard has several benches and tables. At the time of the visit, most of the patients were in the yard, playing some social games, walking, or just sitting. Some patients were walking in their pyjamas, while some of them were half naked. Two thirds of them were under the influence of neuroleptic medications and some exhibited signs of extra pyramidal side effects. Many patients had been institutionalized for a long period of time, some of them for more than ten years.

Most of the rooms in the female unit were overcrowded. One of the rooms the delegation visited was of 20 square meters, with seven beds but no place for storage of personal belongings. The room could not be closed, as there was no door-handle. The ceiling in the room was moistured, and plaster was falling off the walls. There was no artificial light in the room, but only in the corridor where it was centrally regulated.

The unit's bathroom had a toilet with four cabins, four sinks and taps, a mirror and four showers. There was an intense smell of urine here. The floor in the bathroom was covered with tiles. The ceiling was falling apart.

The rooms on the upper floor are of approximately 40-50 square meters, with four to 16 beds, which varies from room to room. The material conditions in the rooms on the upper floor were pretty much the same as those on the lower floor. The furniture was old, some of the sheets were dirty and torn. There were only one or two lockers for personal belongings per room. Only windows had been renovated. Toilets on this floor were not functioning.

The occupational therapy and therapeutic meetings are held in a separate, big room. This room was in a better condition than the dormitories; it had eight tables and about 60 chairs. The room had a TV set,

and was decorated with posters and flowers. However, the delegation did not get the impression that there had been any activities offered to the patients here.

In the male unit, the delegation met a patient who was restrained in a straight jacket. He had a wound on his forehead and on foot. The patient had been restrained after a fight for cigarettes. There was no record on his restraint.

The delegation got the impression that the living conditions in these units were inhumane.

2.2.3.4. Geriatric ward

This ward had been completely renovated. It was a small building with five rooms, and four to six beds in each of them. Beds with clean linens had been bought recently, and their height could be adjusted. The floor in the rooms was covered with linoleum. Windows were big and there was sufficient access to natural light. There were TVs and radios in every room.

The toilets were of the “Asian” type and were therefore not suitable for disabled persons.

Some of the rooms were offered, for a fee, to accommodate old patients who would have to spend the rest of their life in the ward.

There is no special room for religious purposes within the hospital. Though there is plan to build a church in the village, it is not clear which solution will be found for patients to attend mass.

2.2.4. Nutrition

The hospital’s daily food expense per patient 1.5 Euro per day. The menu is enriched with products from a small farm within the hospital. The director informed that the food was of high quality and included enough meat, vegetables and fruits. There were special dietary regimes prepared for patients with specific needs. However, there was no adaptation to the religious needs of the patients.

Patients can buy additional food in the hospital’s shop. The hospital has a small cafeteria that is very tidy, clean and modern. Some of the patients also work there. Patients are allowed to receive food parcels from their families, but this food must be industrially packed to prevent spread of possible epidemics.

There is a small piece of land within the hospital area containing a chicken and pig farm. Mushrooms are also grown here. The state does not stimulate this production and the hospital is not allowed to sell any of its produce at the open market.

2.2.5. Medical Care

The psychiatric hospital applies six types of therapy in the treatment of its patients: pharmacotherapy, psychotherapy, occupational therapy, musical therapy, art therapy and social therapy. A treatment starts upon arrival of a patient and there is no decision required by the court for the use of a specific therapy.

The hospital has lots of medications and they are freely available for patients. The director informed that there is sufficient amount of money allocated in the hospital’s budget for the medications. The medications are bought on tender. It uses both traditional (chlorpromazine, haloperidol), as well as atypical anti-psychotics (such as risperidone and clozapine). Neuroleptics are indicated with correctors to cope with possible extra-pyramidal side effects.

According to the staff, neither electro-convulsive therapy nor any other invasive therapies were used in the hospital.

The hospital's record shows that 80-90 patients die during the year, but one should keep in mind that many old people are placed in the hospital.

The hospital also has a unit for internal medicine. The windows on this building have bars and patients from this ward are allowed to walk around.

There is no legal provision in Serbia on clinical treatment on mental patients, but the new law that is expected to have been adopted in July 2005 should contain prescriptions which clinical treatment are forbidden.

2.2.6. Seclusion and Restraint

The hospital uses a restraint method with leather belts and straight jackets. There is no seclusion room, so the patients are restrained on their beds in front of other patients. A restraint is ordered by a doctor and performed by technicians. According to the director, restraints were performed in the acute unit. Sometimes they had registered several restraints during a month, while sometimes there had been no restraints for two or three months.

The delegation saw two patients who had been restrained - a woman that had been restrained on the previous night and a man who had become restrained only a few hours before the arrival of the delegation. The hospital did not keep a separate journal on restraints, as all restraints had been registered in the personal files of the patients. There is no legal basis on seclusion and restraint in Serbia.

2.2.7. Staff

The hospital has 591 employees: 20 neuropsychiatrists, 13 psychiatrists, eight doctors (internist, dentist, radiologist, clinical biochemist, pharmacist, and several others), 12 clinical psychologists, 12 doctors specializing in psychiatry and neuropsychiatry, six social workers and sociologists, one special education teacher, 215 medical technicians, three special pedagogues, and 286 other auxiliary and administrative staff.

The staff works in two shifts, and during the night there are two doctors and one nurse on duty in each ward.

2.2.8. Inspections

Health-, work- and finance-inspectors visit the hospital at least once a month. Their recommendations are later sent to the government to draw their attention to the state of the hospital. University professors from Belgrade also supervise the work of the hospital.

2.2.9. Recommendations on the Ministry of Health facilities

- Involuntary placement in a psychiatric hospital is a gross miscarriage of justice and violation of international standards of personal freedom and due process.
- The procedure for civil commitment to a psychiatric institution for active treatment in Serbia and Montenegro should be brought in line with the international standards. More specifically, it should envisage:
 - Appearance in person before the court under a specific procedure for determination of the legality of the detention shortly after the initial placement;
 - Participation of a lawyer from the moment of detention, and obligatory representation during the entire proceedings, including the appeals. A system of adequate legal aid should be envisaged for patients who are unable to pay lawyers' fees;
 - Conducting the court hearings for involuntary hospitalization according to due process standards, including a possibility of the committed to appear before the court in person, to present an alternative expertise, to have sufficient time for the preparation of the defence and to cross-examine witnesses.
- The law should also call for a procedure to seek informed treatment consent from involuntary patients, as well as an additional procedure to evaluate the capacity of a patient to give an informed treatment consent. Advanced directives should be incorporated in the law as legitimate forms of the expression of a specific will.
- Patients should not be restrained in front of other patients, and mechanical restraint should be avoided.
- A restraint record should be rigorously kept.
- Seclusion and restraint in psychiatric institutions should be regulated by the law. Separate journals for registration of restraints should be used.
- All patients should be ensured at least one daily hour of outdoor exercise.
- The material conditions in the longer-treatment wards should be improved, as well as the hygienic standards.
- Diverse activities should be offered to the patients, and measures should be taken for their deinstitutionalization.
- Patients should be offered individualized clothes (not pyjamas).
- Toilets should be reconstructed for use by disabled persons.
- Specific law should regulate clinical drug treatment on mental patients.

3. Ministry of Social Care facilities

3.1. Background to the involuntary placement of persons in the facilities of the Ministry of Social Care

The procedure of persons' placement in social care institutions is defined by the *Law on Social Care and Citizens' Social Safety (Official Gazette of the Republic of Serbia, No. 36/91, 18 June 1991)*. Among other rights to social care and safety, this law provides the right for the domestic assistance, day hospitalization, and the accommodation in a social care institution or in another family than its own. *Article 36* of the law stipulates that the right to accommodation in a social care institution implies beneficiaries' placement in an institution that provides the complete care of them (accommodation, food, clothes, medical, and nursing services). This institution educates and trains a detained person in specific trades, provides him/her with medical care, and organizes occupational, cultural, recreational and rehabilitational activities.

Apart from the other categories, mentally impaired children with moderate, severe and profound forms of mental retardation, with multiple developmental disabilities, with autism, and children with physical incapacity lacking appropriate family care are entitled to such accommodation. According to *Article 39*, a developmentally disadvantaged child can be a blind child, a deaf child, a child with severe bodily development disadvantage (paralysis, cerebral paralyze, dystrophy, monoplegia, paraplegia, quadriplegia, multiple sclerosis and other inborn or acquired physical deficiencies), a mentally disadvantaged child (moderate, severe and profound mental disabilities), a child with autism, or a child with multiple developmental disabilities.

The procedure aimed at exercising the right to the accommodation in a social care institution is initiated at the request of a person in question, his/her legal counsel or guardian, or ex officio. A social care centre institutes the procedure ex officio or at the initiative of citizens, authorized bodies or other legal and natural persons, when the placement is in the interest of a person, social community or a third party.

The *Law on Amendments and Supplements to the Law on Social Care and Citizens' Social Safety (The Official Gazette of the Republic of Serbia, No. 33/93)*, states under *Article 8*, that the decision on the placement in a social care institution is made on the grounds of opinion and findings of an expert team composed of the center's employees. The opinion of the experts should include: the evaluation of the met preconditions for necessary accommodation, a statement that the center has duly explored all possible options and taken all measures with a view to secure extra institutional protection, and that the accommodation is the most appropriate form of protection of a person.

No court review, however, is envisaged, despite the fact that in some situations (e.g. in the case of persons under guardianship) the placement amounts to deprivation of liberty often for life.

Article 47 of this law states that a beneficiary participates in the cost of his/her accommodation with all his/her earnings, except for the amount required for personal needs. Beneficiaries' parents and relatives also participate in the payment of expenses, unless the beneficiaries are mentally disadvantaged persons with moderate, hard and severe forms of mental disorders, with multiple developmental disabilities, with autism, or mentally ill persons under guardianship. Accommodated persons with no income are provided with funds for personal needs, with exception of persons with severe mental disorders or children under seven years of age.

The criteria for parents' or relatives' share and for the amount covering personal needs are set by the Ministry of Social Care. *Article 9* of the *Law on Amendments and Supplements to the Law on Social Care and Citizens' Social Safety* provides that accommodation expenses shall be paid from a beneficiary's immovables – if he/she has any – in the event the beneficiary's income is insufficient to cover them. A social care center may sell or rent out the beneficiary's immovables and cover his/her accommodation costs with the gained funds. If this is the case, the social care center and the beneficiary are obliged to sign an agreement. The funds obtained from the sale or lease of the

beneficiary's immovables are transferred to the center's separate bank account. Immovables are sold or leased at market price and are subject to a tender. A complaint against the social care center's decision can be submitted to the Ministry of Social Care. The Ministry of Social Care annually revises all their decisions related to the rights to social insurance, including those regarding accommodation in the social care institutions. At the Ministry's request, a relevant social care center is duty-bound to submit all the documentation for review within eight days. Administrative proceedings to oppose the decision deriving from the Ministry's review can be instituted before the Supreme Court of Serbia. A social care center is authorized to implement the Ministry's decision and is entitled to police assistance in the process.

The Ministry of Social Care, i.e. a social care inspector, supervises the legality of a social care institution's functioning. The Social Care Administration controls an institution's professional capacity.

3.2. Visit to the Special institution for children and juveniles with intellectual disabilities in Stamnica

The IHF delegation visited this special institution for children and juveniles with developmental disabilities on 31 May 2005. The meeting began at 02:50 p.m. The staff was willing to stay longer than their normal working hours. The delegation met with the director, the social worker, the doctor and later on with nurses and special training teachers, or as they are called in Serbia 'defectologists'.

3.2.1. Basic information

The facility covers the area of five hectares and consists of 17 buildings. It was built in 1964 and was for a period back then used to serve as a mining building. The last reconstruction was conducted four years ago, in 2001. Additionally the institution carries out some farming activity on its owned fields surrounding the main buildings. There is also a football pitch.

By the entrance to the institution and inside the director's office, there are posters of the *European Union Human Aid*. The institution receives donations from several institutions like the 'People in Need', the 'Women's Guild of Vienna', the French *Red Cross* and also from governmental sources, like the Ministry of Social Care. All donations have amounted to a total of 6.646.000 dinars.

Expenses include 41.262.000 dinars for salaries and 6.012.000 for running costs and reparations. The running costs comprise electricity, kitchen, heating, telephones, postage stamps and insurance.

The questionnaire that the Helsinki Committee for Human Rights in Serbia had sent to the institution prior to the delegation's arrival had already been filled in. The delegation was also provided with recent (dated 27 May 2005) statistical data on the age, gender and conditions of the residents of the institution, the institution's analytical budget for 2004-2005 and an informative DVD on the 40th anniversary of the institution.

3.2.2. Categorization and segregation of patients, and its purpose

Before the admission of a resident, the personnel of the Center of Social Work (later Center) makes a decision upon the resident's judicial capacity and then sends the report to the Ministry of Social Care. According to the institution's personnel, there is a tendency to put the vast majority of residents under guardianship.

After the age of 18, only a court can decide upon the ability of the residents to work. The Center's initial decision is temporary, and stands until the legal proceedings are completed. However, it may take one year for the proceedings to be completed. While waiting for the decision, the guardians are selected only from the personnel of the center.

The institution has 450 residents with severe or profound developmental disability. The admission age to the institution is from 7 years upwards. Children of less than 7 years of age are admitted only to the Subotica institution known as the “Cradle”. The residents’ families call for the help of the institution, as they cannot take care of their children by themselves, but many do it also because of the financial inducement. However, on the day of the delegation’s visit there was also a 5 year old child placed in the institution. Most of the aged residents have been in the institution for life. The oldest resident was 80 years old. The institution’s accountant receives the residents’ pensions even though he has no such authorization.

There is only one doctor, who visits the institution’s residents daily. There are no other doctors employed. The majority of the residents are completely dependent on the personnel and require 24 hour daily care, as most of them have an IQ of circa 20, meaning a profound disability. In fact, the IQ of the residents is measured for the first time by the psychologists of the Center of Social Work.

On the day of the delegation’s visit there were:

Men	254
Women	196
Under 18	99
Under limited guardianship	0
Under full guardianship	238

Out of the 238 residents under full guardianship, 96 were under the ordinance of the court. Only 29 out of these 96 had guardians who did not belong to the Center’s personnel. 142 of them had been placed in the institution by a decision of the Center, all of them had a guardian that belonged to the Center’s personnel.

The personnel of the visited institution were not competent to provide information regarding the legal procedure for placement under guardianship.

Disability stage on the day of the visit:

Completely disabled people, who cannot move at all, and are permanently bed-ridden	39
Strongly disabled people with limited ability to move	36
Disabled people who can hardly move	20
Not disabled and able to move	355

There were also several cases of improvements in the institution. In 2004, there had been two cases of children who, after having stayed in the institution for some time, had felt better and had been taken back by their family. There was also a case of a child which had been transferred to an institution for children with a higher intellectual level. Furthermore, there was a case of a 9 year old resident who had showed amazing improvement and now contributed immensely to looking after the residents.

The documentation needed to include lab analysis (blood and urine), samples from trough and nose and an antibiogram. Every patient needs to take a Parasitological test, an X-ray, an HIV test and Hepatitis A B C tests. They also need an internist’s and a cardiologist’s examination, as well as a gynaecologist’s examination for females. Documents also include previous medical documentation, a medical file, record of immunizations, and a health booklet.

3.2.3. Material conditions

The whole institution is divided into a central, an upper and a lower zone.

The material conditions of the institution, e.g. heating, ventilation and light are sufficient. The central building was being painted at the time of the visit. All units have large windows, so there is enough light and fresh air in the premises. The central heating system operates from September to May.

The institution also provides the residents with clothing of satisfying quality.

3.2.3.1. Central zone

This zone has 100 bed-ridden residents. One nurse and four hospital attendants are responsible for the entire medical care in this zone.

It contains the so-called *D-unit*, with an admission unit that can accommodate 21 persons. A patient can stay in the admission unit for a period of three to six months. During this period, a patient is being put under full observation by special education teachers and social workers.

3.2.3.2. Upper zone

There are 170 residents in the upper zone, which contains two female and three male departments. The majority of the residents in this zone are older than 18. However, there is no age division in practice, and children can share a room with the elderly residents.

3.2.3.3. Lower zone

This zone is divided into five departments:

- 1) The "*French unit*" (the unit was built with the financial support of the French Red Cross) has 80 residents up to the age of 18. It has two departments (named A and B). Each of these accommodates 40 residents.
- 2) Pavilion "A" has 25 residents (children only) whose mental condition does not exceed the level of a 6-year-old child.
- 3) Building "D" accommodates 19 residents of different ages, with an IQ which oscillates around the lowest rate possible (one).
- 4) Building "E" (female unit) accommodates 23 residents who are older than 18 years of age. None of them is bed-ridden.
- 5) Building "F" accommodates 25 adult residents (15 female and 10 males).

The "French Unit"

Each bedroom is designed for 5-6 people. They were all clean, and equipped with good beds and clean bed-sheets. Each bed was decorated with a colorful toy.

The shower room was clean, with five showers and one special chair for patients incapable to move.

There is one dining room for both departments of the French unit. During the meals children wear special plastic aprons so as to avoid getting dirty.

During the day children are allowed to be outside. There are different playground areas which they can make use of. When the weather is bad, the residents spend all their time in the living room watching TV or playing.

3.2.3.4. Central building

The central building is divided into room-apartments, which are usually shared by the two or three residents. These residents are able to take care of themselves. Some of the apartments have beds, while others are equipped with sofas. All the apartments have a toilet and a shower. In one of the room-apartments the delegation visited, everything was in perfect condition. The described apartment did not only have a bathroom but also a washing machine. One of its residents (Jacqueline) did her and all the other residents' washing. She had also painted her own apartment door, which she had the responsibility of opening and closing. Another apartment was also in a perfect condition, having plenty of toys and with embroidery on the wall that the residents of the apartment had made themselves.

In another area of the central building, there is a large, clean sitting-room with a TV set. Eleven residents were watching TV. All of them were in wheel chairs due to their severe leg atrophy. Other residents were just sitting around.

Nearby there is a room for:

- a) Residents with Down syndrome (10 years old)
- b) Residents with severe disabilities (20-24 years old).

The latter group is bed-ridden for the whole day, needs constant care and have no realistic hope for improvement for their condition. The personnel showed the delegation each of the residents here, and informed that the residents are not allowed do anything by themselves. Importantly the amount of materials necessary for these resident's care was not sufficient for their needs (for e.g. pampers); the wages of the personnel are very low (15-16.000 dinars, which equals 177-188 Euro) especially considering that the shifts last for 12 hours. Additionally, it is also emotionally straining for the personnel to treat these residents.

In another room there were many residents sitting or lying on the beds, doing absolutely nothing. They were almost alone, without anyone looking after them. Genders were mixed in this area, although most of the residents were females.

3.2.4. Medical care

There are medical examinations carried out in the institution. In 2004, 3207 GP examinations, 912 visiting neuropsychiatry examinations and 105 visiting stomatologist interventions had been carried out. In December there had been two visiting psychologist and six internist there. The number of general examinations had been 316, and there had been 132 phone consultations with registered doctors.

Residents often injure themselves, though this does not happen on a daily basis. When not in therapy, residents can be quite aggressive, and from time to time cannot even be approached. For these reasons, the psychiatrist is authorized to prescribe tranquilisers according to the medical need of the residents. The delegation was informed that the psychiatrist had been trying to apply the minimum of medical therapy and that because of this there were incidents of unpredictable aggression. Nevertheless, no case of a serious injury had been noticed.

A social worker provided the delegation with the annual report to the Ministry of Health regarding the diseases which had occurred in the institution in 2004. According to the statistical data, epilepsy was the most common disease among the residents. At the time of the visit, there were 250 residents with epilepsy.

There were 225 residents on medication: Five of them were treated with antidepressants, 20 were on anti-psychotics and 200 were on neuroleptics. The usual neuroleptic is "*Haloperidol*" and its use in this institution was always accompanied by another drug – corrector, usually '*Akineton*'. Specific side effects, like '*acatizia*', due to the use of the afore-mentioned medicines were noticed during the visit. Many residents were in a state of immobility, meaning that they did not seem to be alive and respond to external stimuli as one should.

There had been 14 death cases in 2004. Most of the residents had died during the winter from bronchopneumonia. The ages of the deceased residents were as follows: 6, 15, 17, 22, 23, 25, 26, 33, 41, 44, 47 (2x), 54 and 76.

A gynecologist works with the institution on a contract basis. Referring to cases of residents between 25-30 years of age, the doctor said that they often had emotions and expressed themselves sexually. This is why they were on contraception and more specifically - the institution had introduced the common use of the spiral. In case of an unwanted pregnancy, an abortion is carried out in Belgrade. The delegation was informed that in 2004-2005 there had been no abortions, while in 2003 there had

been three abortions. Before 2003, no abortions had been registered. The so-called “Commission of Ethics” is a body which defines until which month of pregnancy the abortion is allowed and this prescribes the normal practice for the whole country.

The medical documentation includes medical files of residents, neurological protocol and files of residents, record of symptomatic and neurological therapies, record of injections, record of weight and height of residents, record of menstrual cycles of residents, everyday shift health records of residents, record of health booklets of residents, and record of withdrawals of legal capacity of residents and introducing legal guardians to the residents.

The institution was supplied with medicines and sanitary materials based on the prescriptions founded by the state. There is a number of medicines which are on the positive list and these medicines can be provided free of charge. The medicines which are not on the positive list are purchased by the institution from the Petrovac City Pharmacy. The institution had been supplied with the medicines from the positive list based on 1014 prescriptions. Apart from the medicines mentioned herein, there had been approximately 1000 prescriptions per month in 2004 for neurological diseases, because there are around 300 residents in the Stannica institution who are in need of neurological therapy. Neurological medicines are also free of charge. In 2004, 2930 lab analyses and 1095 lab tests for diabetes had been conducted in the institution.

In 2004, the Ministry of Health funded some medications that were not on the positive list. Funding is limited and the institution pays for the medicines that are not on the positive list. The medical service is also funded by the Ministry and is free of charge.

3.2.5. Contacts with the outside world

Parents and relatives are allowed to visit the residents at any time. Once per annum (the last Friday of August), the administration invites the relatives, shows them the premises where residents live, and informs them about the condition of the residents.

During the day, if the weather is bad and there is no possibility for an outside activity, residents watch TV. If the weather allows outside activities, residents can play in the garden. The institution has playground areas with swings, a chute etc. Residents also gather in groups to take part in the writing or reading classes lead by the social workers. Since 95% of the residents have an intellectual ability close to that of a 6 year-old child, all the classes are adapted to their level.

Art therapy is widely applied: The personnel teach the residents how to draw (for example, with the assistance of a therapist, children have made drawings on the yard pathways), embroider or listen to music. Labor therapy is also applied: Residents help in cleaning, cooking, fixing their beds, and looking after other residents. They also make various constructions, attend workshops, get involved in manual activities, look after animals, plant vegetables and fulfill gardening tasks.

3.2.5.1. Social activities programmes

The institution has been cooperating with a non-governmental organisation, the “Child’s Heart” for the last 2 years on a project which is aimed on improvement of the residents socialisation condition. As a part of this project children from the state schools spend their vacations with the residents of the institution in the camps. This is called the “Social interaction vacations” and has helped in the social integration of the residents.

Moreover, although no residents have been released from the institution, 8 to 10 residents are being prepared to live on their own in 3 houses in the city of Petrovica. Right now they live in their own rooms-apartments in the institution. Their transfer will take place at the end of the year. In their new residences there will also be someone responsible for taking care of them. The money for this project is provided by the government, and it is on the experimental level.

In the same spirit of these socialisation efforts, on the day of the visit 11 residents from 10 to 36 years of age were to attend a theatrical play in a secondary school in Petrovica. In the past the custodians had also taken residents to the monastery and the zoo. At another point, recognizing that some children had noticeable singing skills, the delegation was informed that on the 25th of June, there would be a singing contest for children-residents of similar institutions and this institution was to participate with 3 contestants. The 1st prize to be awarded was a journey to a foreign country.

3.2.6. Discipline and punishment

The institution does not apply any means of restraints such as cage beds or special isolation rooms. As the delegation was informed, the last four years there had been no case when force had had to be applied to the residents.

3.2.7. Staff

The staff of the institution counts one doctor (general practitioner), 22 nurses, one laboratorian and one sanitarian. The sanitarian controls water and food everyday, kitchen and storage every six months and is responsible for disinfection and sterilization.

Some residents are not allowed do anything on their own. The personnel are trying to teach the residents how to eat, sit and wash themselves. On a daily basis, two special education teachers treat the residents so they may preserve their kinetic, hearing and speech abilities, as these could be further damaged without training, and result in decreased socialization, which again would affect their psychological health.

The institution employs 19 nurses, who work in shifts (four nurses per day), one doctor, who visits each unit daily, four special education teachers, and a director, who is also a special education teacher. The delegation was told that one nurse is responsible for 25 residents 24 hours daily. Furthermore, there are also an additional 101 supporting staff, members, who have not received any relevant formal education but have acquired internal training in the institution, as they are themselves residents.

A progress check of the residents is carried out daily and a more detailed progress check is carried out every four years. Apart from the previously mentioned staff, there are also ten therapists, and one neuropsychiatrist, who visits 5-10 residents once in a week, depending on the needs that come up. In case of emergency, there is a possibility to transfer the resident to the city hospital, which is situated 10 km from the institution. For this purpose the institution has its own vehicles.

The director informed the delegation that just on the day of the visit, he had signed a contract with a physiotherapist and that the latter would obtain his own therapy room in the institution. Until now, nurses had taken care of the immobile residents. The nurses had tried to make them exercise their hands and turn their bodies from side to side, but had not been able to give the residents any kind of professional massage.

The standard procedure for residents is to be woken between 07:00 a.m. to 09:00 p.m. Residents older than 18 can also sleep in the afternoon. Due to their condition, many of the residents are under a constant observation even when they are asleep. As an example of the need for a constant control and checking of the residents was an incident during the meeting of the delegation at the director's office: On one occasion the doctor had to leave because one resident had pushed another one, who had fell on the ground hitting his/her head.

The personnel stated that more staff was required and that there was a constant deficit of funds. They considered the fact that the institution still functioned despite its financial condition, a miracle.

3.2.8. Inspections

The Center of Social Work personnel had visited the facility once in 2004.

On 17 November 2004, the Serbian Ministry of Health had supervised the professional work of the health service in the institution.

3.2.9. Recommendations on the Ministry of Social Care facilities

- The existing number of employed personnel is insufficient to provide adequate care to the residents.
- There is not enough professional personnel employed. As mentioned in the report, only one physiotherapist was employed on the day of the delegation's visit. Psychological help and social care is also insufficient.
- The residents might be living in good material conditions but there seems to be no hope for their improvement.
- The question of residents' pensions should be clarified, as it could lead to arbitrariness, risking the residents' rights and welfare in the long run.

Summary of recommendations

Recommendations on the Ministry of Justice facilities

General recommendations:

1. The IHF delegation recommends that the government of Serbia take steps to fight corruption in the prisons. All inmates need to have better material conditions, without the exchange of any favors or financial contributions.
2. Urgent steps should be taken to improve the material conditions in the cells, especially the disciplinary cells and those for life-sentenced prisoners. The cells should be larger, with better access to natural light, heating, ventilation, bedding and furniture.
3. The IHF delegation strongly recommends that the prison staff and the authorities make use of all the means at their disposal to prevent inter-prisoner violence and intimidation. The authorities must guarantee assistance to the victims of such events and conduct prompt and impartial inquiries.
4. Existing procedures for dealing with cases of torture and ill-treatment should be reviewed in order to ensure that whenever injuries recorded by a doctor are consistent with allegations of ill-treatment, the information is brought to the attention of the relevant authorities.
5. Medical services in the institutions of the Ministry of Justice should be integrated with the national health care system. It is necessary for the doctors and other medical staff to be under the supervision of the medical authorities only, in order to allow the fulfillment of their duties as medical professionals.
6. Special measures should be taken to increase the number of inmates engaged in purposeful activities in the prisons. All possibilities regarding the engagement in purposeful activities of the detainees in the investigation detention facilities should be explored.
7. The IHF delegation recommends that positive measures be taken in order to improve the conditions for visits. A timetable of the visits should be organized in a way that would avoid overcrowding of the visit room. This would improve the communication and the atmosphere of the visits.
8. The IHF delegation recommends that correspondence be checked on an individual basis with a judicial warrant only when there are indications of a security breach and threats to the rights of others. Special measures should be taken to guarantee the confidentiality of prisoners' correspondence with their legal defenders.
9. One hour of daily outdoor exercise is a minimum standard. The IHF delegation recommends that measures be taken to guarantee this to all prisoners – both remand and sentenced – and in all facilities, including the investigation detention facilities.
10. Sanitary facilities in the prisons should be thoroughly renovated. The IHF delegation recommends to the authorities to guarantee the access to running water in each cell.
11. Disciplinary confinement and all administration of isolation should be imposed by an independent body with due process guarantees. The prisoners should have the right to appeal such measures effectively.
12. The government of Serbia should establish a system of regular and effective inspections to the places of detention. Serbia should consider ratifying the Optional Protocol to the UN Convention against Torture.

District Prison, Belgrade

1. The district prison in Belgrade is seriously overcrowded, and there should be found a way to solve this problem. In some of the cells, measuring only 20 square meters, twelve prisoners were placed, and they were sleeping on bunk-beds.
2. Overcrowding has a serious impact, not only on the material conditions for everyday cell organization, but also on the opportunities to benefit from walks outside and on opportunities to take part in meaningful activities. According to the LECS (*Article 59*), the detainees and prisoners should be allowed to spend at least two hours outside the cells, but due to the overcrowding - as the delegation was told by staff and many detainees - they have only fifteen to thirty minutes of outside walking per day. During the weekends, the detainees and prisoners

are not allowed to leave their cells at all because of an insufficient number of staff present. The prison administration should find a way to solve these problems. Also, because of the lack of space for daily walks due to the overcrowding, the walks for some of the inmates should be postponed to at least after the breakfast.

3. One of the major problems in the conception of this institution is that the prisoner cells were conceived in a way that does not provide access to natural light and fresh air. The cells are very cold in the winter and hot in the summer. The administration should find a way to improve the isolation of the cells.
4. Heating bodies are placed only in the corridors, so that the cells are very cold during the winter.
5. Due to the overcrowding in the cells, some prisoners are asking to be placed in solitary confinements, which are not even appropriate for the purposes of punishment, let alone for a longer stay. The prison government plans to transform some 80 of these cells into larger cells by removing the walls. Until then, the detainees are expected to continue living in inhumane conditions. Steps should be undertaken as soon as possible, to improve the living conditions of the inmates.
6. A solution should be found and plugs installed in the cells, so that the prisoners who are not working have at least the opportunity to watch TV.
7. Quality and quantity of food for juveniles should be improved.
8. When there are suspicions of ill-treatment, the doctors should not only record the information, but also notify the prison governor and prison administration, and not wait until/if the victim lodges a complaint.
9. All written correspondence of detainees - private or official, including letters containing complaints - is given by detainees, without envelopes, to prison officers, and then transferred to courts. The content of complaint letters is easily accessible to prison personnel, which makes it extremely difficult for the detainees to raise complaints.
10. A legal provision should be made that would regulate the confidentiality of the correspondence between prisoners and their lawyers.
11. Another matter of concern is the lack of external control over prison institutions. Bodies independent from the Ministry of Justice should be established to oversee the prison institutions.
12. *Article 71* of LECS states that a prisoner is entitled to a minimum visit time of one hour. On the contrary, the visits for the prisoners in the district prison in Belgrade last only 15 minutes. This is against the *Law on Execution of Criminal Sanction* and international standards.
13. Although the staff of the so-called "educational center" of the Belgrade district prison claimed that there were some sport and cultural activities organized for sentenced prisoners, this did not seem to be the case. If they did exist, however, they were insufficient. The administration should organize more meaningful activities for the prisoners placed in the district prison.
14. Prisoners of all confessions should have the right to access their religious representative.
15. The number of guards in the district prison in Belgrade should be higher, in order to improve their working conditions. This improvement will also result in a better atmosphere among the guards and detainees/prisoners.
16. A better solution should be found regarding the present accommodations of guards' families.

Correctional Penal Facility "Prison Hospital", Belgrade

1. The level of overcrowding in the hospital is so high that it results in an inhumane treatment *per se*, and should be appropriately solved as soon as possible.
2. There is a need for recruitment of adequate medical, nursing and technical staff, as well as of a provision of appropriate premises, installations and equipment
3. There is an urgent need to increase the living space per patient and secure enough and adequate lighting, heating and air circulation. The institution must ensure satisfactory hygiene requirements.
4. The time that the patients spend in open air should be increased.
5. The institution must secure a separate room for those patients who must be isolated and/or tied up, and equip it properly.

Penitentiary Reformatory for Juveniles in Valjevo

1. The institution should be helped to raise financial resources in order to continue the renovation work and to broaden the scope of the education in the prison.
2. The regime of increased security, which is applied in some cells, does not allow the inmates to engage in any useful activities, so that they spend several months or even longer without satisfactory opportunities for exercise, except for a 30 minute daily walk which constitutes even less than is granted by the law (*LECS, Article 274*). The administration of the prison should enable the inmates to engage in some useful activities while spending their time in the cells of increased security.
3. There is a placement of minors and young adults (at the time of the visit, up to 27 years of age) in the same institution. Though the juveniles are placed in separate units, they work and spend free time together with older inmates, which makes them vulnerable to different forms of abuses;
4. The governor has a very broad scope of discretion, as he can decide whether to grant a prison leave, place a prisoner under a strict regime and continue this regime for a long period of time, and suspend the education of a juvenile if he believes that it harms the fulfillment of the correctional measures. This discretion should be narrowed and made subject to control.
5. The delegation observed a lack of judicial control over the decisions that were made by the prison administration. This should be improved and precisely formulated.
6. The lack of a meaningful education for minors needs to be addressed more effectively. The inability of different governmental authorities to communicate with each other has greatly hampered this process in the past.
7. Juveniles placed in the institution should be ensured an opportunity for computer literacy.

Penitentiary Reformatory in Požarevac

1. The most serious concern refers to the placement of a prisoner in a particular regime by the single state official – the prison governor. This constitutes an unclear mechanism, which ought to be revised by the Serbian legislators.
2. The administration should make its best effort to ensure that all the prisoners get acquainted with the prison's house rules. The information about the house rules should be distributed by the administration.
3. The conditions in the "passing room" are unacceptable, as the inmates placed there have not been proven guilty and should not have to await their sentencing in a room resembling a punishment cell.
4. Some of the beds are too close to the ground. Instead of the prescribed 30 cm, the delegation measured only 25 cm from the ground.
5. The inmates in the strictly closed unit should be allowed to get involved in additional activities, other than the daily one-hour walk.
6. The illumination in some of the cells is insufficient, and should be improved. Some cells have only 30 lux (provided by natural light) instead of the recommended 500 lux.
7. A definite solution should be found to avoid overcrowding in some of the buildings and some of the cells.
8. The toilets in the cells of the Pavilion 7 need to be modified to offer more privacy.
9. The inmates should be granted the right to invite a medical specialist of their own choice with no interference of the administration.
10. Medical data of the inmates must be protected in accordance to the law.
11. The inmates should have a legal right to appeal to the court regarding their punishment.
12. The control of inmates' written correspondence to private persons and official institutions is deeply inappropriate and inadmissible.
13. The facility must provide inmates with everything that is necessary for the maintenance of their personal hygiene. Furthermore, the inmates in the admission unit should be provided with toilet articles, instead of being dependent on their families in the matter.
14. It is unacceptable that the premises where food is prepared and served are dirty. The prison's bakery and kitchen are in a very bad condition, and require major renovation.

15. Although both the quality and quantity of the food are on an acceptable level, special measures must be undertaken to control the parameters for the preparation of the food and check them by the internal medical service and an independent external state body.
16. The physician should regularly visit the strictly closed unit and solitary confinement unit.

Penitentiary Reformatory for Women in Požarevac

1. The prison administration should revise the practices according to which the prisoners are obliged to wear uniform.
2. Cameras in the dining room and in the club room in the closed unit should be removed, as they violate the right to privacy.
3. The IHF delegation noticed that the book of medical records does not contain patients' signatures.
4. The medical staff should compile regular statistics concerning injuries observed, and the record of injuries should be made available to the injured prisoners.

Penitentiary Reformatory in Niš

1. The most serious concern of the delegation is the unlimited power of the prison authorities. The real execution of the court sentence depends only on the prison authorities. They can decide whether a term can be served in an open regime, in a closed regime, or for a major part of the sentence even in an increased security ward. The inmates do not have any effective remedy against an unjust decision of the prison authorities.
2. The other concerns are the consequences of the so-called "liberal" system. On the one hand, the inmates can move freely in the pavilion and in the courtyard, which is positive. But on the other hand, because of the lack of the guards, the inmates can rule over each other, and thus violence among inmates is an everyday practice. As a result, many inmates are completely defenseless against the stronger, richer, and more violent criminals and the members of the prison gangs.
3. One of the serious problems is the corruption of the badly paid personnel.
4. Funds must be secured to renovate toilets, bathrooms, and sanitary installations.
5. The control over the legality of the prison regime should be tightened.
6. The prisoners should be allowed to take longer phone calls.

Recommendations on the Ministry of Health facilities

Psychiatric Hospital in Gornja Toponica

1. Involuntary placement in a psychiatric hospital is a gross miscarriage of justice and violation of international standards of personal freedom and due process.
2. The procedure for civil commitment to a psychiatric institution for active treatment in Serbia and Montenegro should be brought in line with the international standards. More specifically, it should envisage:
 - Appearance in person before the court under a specific procedure for determination of the legality of the detention shortly after the initial placement;
 - Participation of a lawyer from the moment of detention, and obligatory representation during the entire proceedings, including the appeals. A system of adequate legal aid should be envisaged for patients who are unable to pay lawyers' fees;
 - Conducting the court hearings for involuntary hospitalization according to due process standards, including a possibility of the committed to appear before the court in person, to present an alternative expertise, to have sufficient time for the preparation of the defence and to cross-examine witnesses.
3. The law should also call for a procedure to seek informed treatment consent from involuntary patients, as well as an additional procedure to evaluate the capacity of a patient to give an informed treatment consent. Advanced directives should be incorporated in the law as legitimate forms of the expression of a specific will.
4. Patients should not be restrained in front of other patients, and mechanical restraint should be avoided.

5. A restraint record should be rigorously kept.
6. Seclusion and restraint in psychiatric institutions should be regulated by the law. Separate journals for registration of restraints should be used.
7. All patients should be ensured at least one daily hour of outdoor exercise.
8. The material conditions in the longer-treatment wards should be improved, as well as the hygienic standards.
9. Diverse activities should be offered to the patients, and measures should be taken for their deinstitutionalization.
10. Patients should be offered individualized clothes (not pyjamas).
11. Toilets should be reconstructed for use by disabled persons.
12. Specific law should regulate clinical drug trials on mental patients.

Recommendations on the Ministry of of Social Care facilities

Special institution for children and juveniles with intellectual disabilities in Stannica

1. The existing number of employed personnel is insufficient to provide adequate care to the residents.
2. There is not enough professional personnel employed. As mentioned in the report, the only physiotherapist was employed on the day of the delegation's visit. Psychological help and social care is also insufficient.
3. The residents might be living in good material conditions but there seems to be no hope for their improvement.
4. The question of residents' pensions should be clarified, as it could lead to arbitrariness, risking the residents' rights and welfare in the long run.

Appendix

List of delegation members (in alphabetical order)

Georgi Bankov, *Bulgarian Helsinki Committee*
Marija Djurovic, *Helsinki Committee for Human Rights in Serbia*
Brigitte Dufour, *International Helsinki Federation for Human Rights*
Marija Jelić, *Helsinki Committee for Human Rights in Serbia*
Krassimir Kanev, *Bulgarian Helsinki Committee*
Ferenc Köszeg, *Hungarian Helsinki Committee*
Vjolca Mora-Bajrami, *Helsinki Committee for Human Rights in the Republic of Macedonia*
Lamija Muzurović, *International Helsinki Federation for Human Rights*
Filipina Negrievska, *Helsinki Committee for Human Rights in the Republic of Macedonia*
Natasa Novaković, *Helsinki Committee for Human Rights in Serbia*
Marijana Obradović, *Helsinki Committee for Human Rights in Serbia*
Antonia Papadopoulou, *Greek Helsinki Monitor*
Irina Sergeeva, *Moscow Helsinki Group*
Barbara Stando-Kawecka, *Helsinki Foundation for Human Rights in Poland*
Nebojsa Tasić, *Helsinki Committee for Human Rights in Serbia*